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OLDER AMERICANS ACT AMENDMENTS OF 1987: A SUMMARY OF PROVISIONS

Public Law 100-175

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PREFACE

This year, 1987, marks the 22d anniversary of the enactment of the Older Americans Act of 1965. For over two decades this legislation has guided our Nation's efforts to respond to the needs and enhance the opportunities of a rapidly growing population of older Americans.

With the passage of the Older Americans Act in 1965, Congress created a new Federal program specifically designed to meet the social service needs of older persons. Although older persons may receive services under many other Federal programs, the Older Americans Act is considered the major vehicle for the organization and delivery of community based services to this group. The Older Americans Act programs enhance the lives and dignity of older Americans, providing for meaningful activity, suitable surroundings, and the opportunity for employment.

The Act was reauthorized during the 100th Congress by Public Law 100-175. The law provides for a 4-year reauthorization through 1991. This report presents a summary of its provisions.

The Committee would like to acknowledge the work of Carol O'Shaughnessy, Specialist in Social Legislation with the Congressional Research Service, in producing this report. It is hoped that this document will provide a ready reference for all individuals involved not only in programs and services under the Act but in all other areas of the aging field.

JOHN MELCHER,
Chairman.
JOHN HEINZ,
Ranking Minority Member.

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OLDER AMERICANS ACT AMENDMENTS OF 1987: A SUMMARY OF PROVISIONS

Public Law 100–175

I. INTRODUCTION

A. OVERVIEW

Authorizations of appropriations for the Older Americans Act of 1965, as amended, expired at the end of fiscal year 1987. Public Law 100–175, the Older Americans Act Amendments of 1987, providing a 4-year reauthorization, through 1991, was enacted on November 29, 1987.[1]

The amendments contained no major overhaul of the Act; however, a number of new provisions significantly expanded certain service components of the State and area agency on aging program under title III to address the special needs of certain populations. These include the frail elderly living at home; residents of long-term care facilities; persons at risk of abuse, neglect, or exploitation; and low-income elderly who may be eligible for, but are not receiving, benefits under other Federal programs. Prior to the enactment of Public Law 100–175, the Older Americans Act contained three separate authorizations of appropriations for supportive services, congregate nutrition services, and home-delivered nutrition services. In the new law, Congress authorized six additional distinct authorizations of appropriations for services under title III. These are: In-home services for frail older individuals; long-term care ombudsman services; assistance for special needs; health education and promotion services; services to prevent abuse, neglect, and exploitation of older individuals; and outreach activities for persons who may be eligible for benefits under the Supplemental Security Income [SSI], Medicaid, and Food Stamp programs. Although State and area agencies on aging have had some responsibilities to address these service areas in the past, there were no separate authorization levels under title III to carry out these responsibilities. The authorization of supportive services funds was considered a generic category intended to address a very broad range of social services needs. While the intensity of activities of State and area agencies on aging in these areas is to be enhanced with the creation of the new funding authorizations, Congress also sought to protect the existing Older Americans Act programs through a provision stating that funds for the new authorizations may not be appropriated unless total appropriations for programs in effect in fiscal year 1987 increase by at least 5 percent over the previous year. This so-called funding "trigger" does not, however, apply to the new authorization for in-home services for the frail elderly; the trigger is effective through fiscal year 1990.

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[1] The House version of the amendments, H.R. 1451, was introduced by Rep. Kildee on March 5, 1987, and was ordered reported to the House by the Committee on Education and Labor on May 12 (House Report No. 100–97). The bill was approved with amendments by the House on May 28. S. 887, the Senate version of the amendments, was introduced by Senator Matsunaga on March 31, and was ordered reported to the Senate by the Committee on Labor and Human Resources on July 22 (Senate Report No. 100–136). The Senate passed S. 887 on August 6. The Conference Report was filed in the House on Nov. 9 (House Report No. 100–427), was approved by the Senate on Nov. 12 and by the House on Nov. 17.

In addition to the groups mentioned above, other groups given special attention in various amendments to the Act were Native Americans and the disabled. With respect to Native Americans, the law required the Commissioner on Aging to establish within the Administration on Aging [AoA] a new Office for American Indian, Alaskan Native, and Native Hawaiian Programs to be headed by an Associate Commissioner. The special needs of older Indians are to be addressed by a permanent interagency task force to focus on issues of service coordination and improvement for this group. In addition, other amendments were enacted to liberalize eligibility requirements for Indians to receive assistance under the Act. The law also recognized the special service needs of Native Hawaiians by creating a separate authorization of funds for this group under title VI which formerly provided funding only for Indian tribal organizations. Another provision authorizes funding for employment services under the community service employment program to national Indian aging organizations and national Pacific Island and Asian American aging organizations.

With respect to the disabled, the amendments included provisions to improve coordination of the State and area agency on aging program with other service systems established specifically to serve the disabled. An amendment to the elderly nutrition program allows nutrition project administrators to offer meals to disabled individuals who reside at home with and accompany older persons eligible for nutrition services. Another amendment authorizes the Commissioner to conduct demonstration projects to coordinate the State agency on aging long-term care ombudsman program with the State protection and advocacy systems for the developmentally disabled and the mentally ill.

In addition to amendments addressing the needs of these identified elderly groups, the law also reemphasized prior law requirements to focus the Act's resources on those older persons who are in the greatest economic or social need of assistance, with particular attention on low-income minority older persons. A series of amendments strengthened prior law stipulations by requiring that the needs of these groups be incorporated into planning, outreach, and service delivery activities of State and area agencies.

The law also added new provisions to strengthen, expand, or clarify administration and/or delivery of various service programs under the Act. In this regard, the amendments included provisions to: Protect the confidentiality of clients who receive legal assistance; strengthen the administration of the State long-term care ombudsman program and afford ombudsmen certain protections in the performance of their duties on behalf of long-term care facility residents; increase the access of older persons to information about post-secondary educational opportunities; enhance a variety of volunteer opportunities for older persons; and authorize demonstration projects to protect consumers of home care services. The law also required State agencies on aging to set minimum dollar amounts to be spent by area agencies on aging for access, in-home, and legal assistance services. These areas have been identified as priority services under the State and area agency on aging program.

The law also addressed the effect that participation in the community service employment program under title V of the Act has on eligibility for certain other Federal programs. Under prior law, wages received under the title V program could be counted as income when determining eligibility for Federal housing and Food Stamp programs. Public Law 100–175 liberalized these eligibility requirements by enacting a provision to exclude title V wages from being considered as income when determining benefits under these programs.

In other areas, a number of amendments addressed issues relating to the administration of Older Americans Act programs, including the organizational status of AoA within the Department of Health and Human Services [DHHS]. This issue has been a recurring one during previous Older Americans Act reauthorizations due to concern by some that AoA because it is located within the Office of Human Development Services [OHDS], does not have the visibility to effectively advocate on behalf of the elderly across a broad range of issues. The 1987 amendments addressed this concern by elevating the status of the Commissioner on Aging within the DHHS structure. The law did this through an amendment requiring that the Commissioner report directly to the Secretary of DHHS rather than, as under prior law, to the Office of the Secretary.

Other amendments relating to the administration of the program by AoA required improved data collection on programs and services funded under the Act and required the Commissioner to publish an annual statement of goals and objectives of AoA. The law also increased the allowable amount of funds to be spent on the administration of area plans on aging and of community service employment projects; required public hearings on activities under State and area plans on aging; and addressed the organizational status of area agencies on aging when they are located within umbrella organizations.

In addition to reauthorizing and amending the Older Americans Act programs, Public Law 100–175 included a number of other provisions affecting the elderly. The law authorized the President to call a White House Conference on Aging in 1991; authorized adult day care centers for the elderly and the chronically impaired disabled to receive funds for meals under the National School Lunch Act; required the Secretary of Labor to develop a consumer price index for older persons; authorized the National Institute on Aging to conduct clinical trials to test the efficacy of certain drugs on treatment of Alzheimer's disease; and authorized the Public Health Service to conduct demonstration projects on home health services for low-income persons in need of skilled medical or related health services, and for victims of Alzheimer's disease and their families.

B. AUTHORIZATION LEVELS

Table 1 presents authorization levels for the Older Americans Act in fiscal year 1987 and authorization levels for programs which were reauthorized or newly created by Public Law 100–175. The new law increased fiscal year 1988 authorization levels by 5 percent above fiscal year 1987, except for the title VI program of grants to Native Americans (formerly called Grants for Indian Tribes). Fiscal year 1988 authorizations for that program were increased by 56 percent above the fiscal year 1987 level, and the program was expanded to provide funding for a new Native Hawaiian program. The title VII older Americans personal health education and training program was repealed.

TABLE 1.—OLDER AMERICANS ACT AUTHORIZATION LEVELS, FISCAL YEARS 1987–91

[In thousands of dollars]

Act title	1987 [1]	1988 [2]	1989 [2]	1990 [2]	1991 [2]
Title II					
Federal Council on the Aging	$200	$210	$221	$232	$243
Title III					
Grants for State and community programs on aging:					
Supportive services and centers	361,500	379,575	398,554	418,481	439,406
Nutrition services	614,600	645,130	684,837	727,778	773,017
Congregate	(395,000)	(414,750)	(435,488)	(457,262)	(480,125)
Home delivered	(75,600)	(79,380)	(83,349)	(87,516)	(91,892)
USDA commodities	(144,000)	[3] (151,000)	[3] (166,000)	[3] (183,000)	[3] (201,000)
In-home services for frail elderly	([4])	25,000	26,250	27,563	28,941
Assistance for special needs	([4])	[5] 25,000	[5] 25,000	[5] [6] such sums	[5] [6] such sums
Health education and promotion	([4])	[5] 5,000	[5] [6] such sums	[5] [6] such sums	[5] [6] such sums
Elder abuse prevention	([4])	[5] 5,000	[5] [6] such sums	[5] [6] such sums	[5] [6] such sums
Long-term care ombudsman	([4])	[5] 20,000	[5] [6] such sums	[5] [6] such sums	[5] [6] such sums
Outreach for SSI, Medicaid, and food stamps	([4])		[5] 10,000	[5] 10,000	
Title IV					
Training, research, and discretionary projects and programs	31,400	32,970	34,619	36,349	38,167
Home care demonstration projects	([4])		[5] 2,000	[5] 2,000	
Ombudsman and advocacy demonstration projects	([4])		[5] 1,000		
Title V					
Community service employment for older Americans	[7] 368,300	386,715	406,051	426,353	447,671
Title VI					
Grants for Native Americans	[8] 8,600	[9] 13,400	[9] 16,265	[9] 19,133	[9] 22,105
Part A—Indian program		(12,100)	(14,900)	(17,700)	(20,600)
Part B—Native Hawaiian program	([4])	(1,300)	(1,365)	(1,433)	(1,505)
Title VII					
Older Americans personal health education and training program	[6] such sums	([10])	([10])	([10])	([10])
Total	[11] 1,384,600	[11] 1,538,000	[11] 1,604,797	[11] 1,667,889	[11] 1,749,550

[1] Public Law 98–459.

[2] As contained in Public Law 100–175.

[3] The law requires the Secretary of Agriculture to maintain a reimbursement level of 56.76 cents per meal for FY 1986–91.

[4] Not authorized.

[5] The law requires that total aporopriations for programs funded in FY 1987 increase by at least 5 percent over the previous year before appropriations for these new authorizations are made.

[6] Such sums as may be necessary.

[7] Plus such additional sums as may be necessary to maintain at least 62,500 employment positions.

[8] These funds were authorized for grants to Indian tribes. Under the law in effect in FY 1987, this title was called Grants for Indian Tribes.

[9] The law creates a separate Part B for funds for a Native Hawaiian program. As shown in the table, the law authorizes specific amounts for Part A, the Indian Program, and for Part B. The law further specifies that Part B receive funding only if the total appropriations for title VI exceed the FY 1987 funding level ($7.5 million). Part B will receive the first $250,000 of any appropriations exceeding the FY 1987 level, and half of any increase above the first $250,000 up to the authorized amount.

[10] This title is repealed.

[11] Plus such sums as may be necessary for certain programs.

II. DESCRIPTION OF SELECTED PROVISIONS OF PUBLIC LAW 100-175

The following describes selected provisions of Public Law 100-175, by title, of the Older Americans Act. In some instances, in order to more fully describe the amendments, reference is made to statements contained in the reports of the Committee on Education and Labor, the Committee on Labor and Human Resources, or the Joint Explanatory Statement of the Committee of Conference on H.R. 1451. While an attempt has been made to describe most amendments, not all provisions are included.

A. TITLE I—DECLARATION OF OBJECTIVES

Title I of the Act sets out broad social policy objectives oriented toward improving the lives of all older Americans, for example, in areas of income, health, housing, and long-term care. The amendments added to this list of objectives, protection of the elderly from abuse, neglect, and exploitation.

B. TITLE II—ADMINISTRATION ON AGING

Title II establishes AoA to administer most Older Americans Act programs and to act as the chief Federal agency advocate for older persons. It also establishes the Federal Council on Aging to advise the President and Congress regarding the needs of older persons.

Public Law 100-175 contained a number of amendments to title II which address the organization of AoA and administration of the Act, as follows.

1. Organizational Status of AoA

The organizational status of AoA has been a subject for review by Congress during successive reauthorizations of the Act. Concerns in the past have in part focused on the ability of AoA to act independently as the chief Federal agency advocate on behalf of the elderly. Public Law 100-175 addressed the issue by including a provision to elevate the status of AoA within the structure of DHHS. It required that the Commissioner on Aging report directly to the Secretary of DHHS, rather than to the Office of the Secretary as provided by prior law. In explaining this provision, the report of the Committee on Labor and Human Resources stated:

> In light of the significance of issues related to the field of aging, the fact that the Administration on Aging has responsibilities to coordinate its activities with a multiplicity of other Federal programs, both within and outside the Department, and the apparent inclination within the current structure to usurp both funding and resources intended by Congress to be used to support the Administration on Aging for other pro-

grams within the Office of Human Development Services, the Committee has found it necessary and appropriate to elevate the status of the Commissioner on Aging to report directly to the Secretary. In doing so, the Committee expects the Commissioner on Aging to be included in appropriate departmental decision making, to have independent access to the Secretary, and to function with the same level of authority as assistant secretaries and other commissioners within the Department. By elevating this relationship, the Committee intends that the Commissioner shall have control of all salaries and expenses decisions within the Administration on Aging and that the Department shall allocate adequate funds of salaries and expenses to carry out the intent of the Act.[2]

2. OFFICE FOR AMERICAN INDIAN, ALASKAN NATIVE, AND NATIVE HAWAIIAN PROGRAMS

Public Law 100-175 required the Commissioner on Aging to establish within AoA, a new Office for American Indian, Alaskan Native, and Native Hawaiian Programs to be headed by an Associate Commissioner. Functions of the Associate Commissioner include serving as the effective and visible advocate on behalf of older Native Americans within DHHS and with other governmental agencies and coordinating activities of other Federal departments and agencies to assure improved services for this group. The Associate Commissioner is also to evaluate outreach activities on behalf of older Native Americans under the State and area agency on aging and the Indian tribal grant programs, and make recommendations to improve services. In addition, the Associate Commissioner is to administer grants to Indian tribes, collect and disseminate information about the problems of older Native Americans, conduct research on Native American aging, and undertake technical assistance and training activities for title VI grantees.

3. TASK FORCE ON OLDER INDIANS AND SPECIAL REPORT ON SERVICES TO OLDER INDIANS [3]

The law requires the Commissioner to establish a permanent interagency Task Force on older Indians. To be chaired by the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging, the Task Force is to be representative of Federal agencies and departments with an interest in older Indians. It is to submit its findings and recommendations on the coordination and improvement of services to older Indians to the Commissioner at 6-month intervals beginning after the date of enactment of Public Law 100-175.

In addition to establishing the Task Force, the Commissioner is also required to contract for a study of the availability and quality of services to older Indians under the Act. The study is to include an analysis of the number of Indians participating under the Act as compared to the number eligible; how grants are made and services delivered; and how services under the tribal grant program compare to those available under the State and area agency on aging programs, among other things. The study, including appropriate legislative recommendations, is to be submitted to Congress by December 31, 1988.

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[2] U.S. Congress. Senate. Committee on Labor and Human Resources. Older Americans Act Amendments of 1987. Senate Report No. 100-136, 100th Cong., 1st Sess. p. 49.

[3] These provisions are included here since they relate to functions of the Commissioner. They do not specifically amend title II.

4. Data Collection and Reports

In response to concern about lack of essential program data on Older Americans Act programs, the law added a number of new provisions requiring increased data collection by AoA. First, the law requires that beginning in fiscal year 1989, the Commissioner collect, directly or by contract, the following data: Aggregate amount of funds expended to provide each type of service under the Act; number of individuals who are recipients of services; number of units of services provided; and number of senior centers which received services under the Act. Data on services and expenditures are to be collected annually. The law also requires that these data as well as the following items be included in the AoA annual report to Congress: The extent to which States have granted waivers of the title III requirement that area agencies expend an "adequate proportion" of funds on priority services (access, in-home, and legal assistance); and data and analysis of the effectiveness of State and area agency targeting of services on those in greatest economic or social need.

In addition to these general requirements, the law sets forth specific requirements as to data collection and reports on the long-term care ombudsman program. AoA is required to include in its annual report the following elements on this program:

—summary and analysis of data on complaints and conditions in long-term care facilities for the most recent fiscal year;
—identification of significant problems and issues, especially relating to quality of care and patients' rights;
—discussion of current issues on State programs; and
—recommendations on legislative and administrative actions to resolve problems.

The report on the ombudsman program is to be submitted by the Commissioner to the Select Committee on Aging and the Committee on Education and Labor in the House, and the Special Committee on Aging and the Committee on Labor and Human Resources in the Senate. Other reporting stipulations on the ombudsman program require the Commissioner to make the national report as well as reports made to the Commissioner by individual States available to the Administrator of the Health Care Financing Administration (HCFA), the Office of the Inspector General of DHHS, the Office of Civil Rights of DHHS, and the Administrator of the Veterans' Administration.

5. Federal Council on Aging

The membership of the Federal Council on Aging, which acts in an advisory role to the President and the Congress, was changed so that a majority will be older persons. Prior law had required that a total of 6 of the 15 members be older persons (that is, the President, the President pro tempore of the Senate, and the Speaker of the House were each to appoint two older persons). Public Law 100-175 required that a total of 9 of the 15 members be older persons, that is, each appointing authority is required to appoint at least 3 members who are older.

In keeping with greater emphasis given to the needs of older Indians in this reauthorization of the Act, the law also required that the Council have representation from Indian tribes.

6. Program Regulations and Publication of Goals for the Administration on Aging

The law updated a prior law requirement on the timetable for publishing regulations on the administration of the Act. As provided under prior law, proposed regulations are to be published within 120 days after enactment of the law and rules are to be finalized within 90 days after the proposed rules have been promulgated.

A new provision requires the Commissioner to publish an annual statement of goals and objectives to act as a statement of broad annual objectives of AoA. The report of the Committee on Labor and Human Resources indicated that the intent of this provision is to encourage visible national leadership by AoA and to provide an annual framework for AoA activities.[4] The Conference Report on H.R. 1451 stated that these goals should provide a statement of direction and priorities, rather than goals for each State or area agency or goals which would replace the statement of purpose in the Older Americans Act.[5]

7. Study on Unmet Need for Services

The Commissioner is required to undertake a national study to assess the unmet need for supportive and nutrition services, and multipurpose senior centers. The study is to be conducted by summarizing information as to the need for these services contained in State plans on aging, and if such information proves insufficient, the Commissioner is authorized to issue regulations which will produce objective and statistically valid results as to the unmet need. The Report of the conferees on H.R. 1451 indicates that the Conferees expect this assessment to include a geographic and statistical analysis of unsatisfied demand for supportive services nationally, especially at multipurpose senior centers funded under the Act, and similar sites supported by other funds.[6] The report, to be submitted to Congress by September 30, 1989, is to contain recommendations on administrative and legislative action necessary to meet the demand for services at senior centers.

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[4] U.S. Congress. Senate. Committee on Labor and Human Resources, p. 50.

[5] U.S. Congress. House. Committee of Conference. Older Americans Act Amendments of 1987. Conference Report to Accompany H.R. 1451. House Report No. 10-427, 100th Cong., 1st Sess. p. 66.

[6] U.S. Congress. House. Conference Report, p. 66.

C. TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

Title III establishes authority for the network of State and area agencies on aging and requires the development of a comprehensive and coordinated services system for older persons.

Under prior law, title III contained three parts authorizing funds to State agencies on aging for supportive services (part B), congregate nutrition services (part C–1), and home-delivered nutrition services (part C–2). While Public Law 100–175 made certain changes relating to the administration of these services by State and area agencies on aging, the major changes created a number of new sections authorizing distinct funding amounts for a number of program areas. These program areas are: Non-medical in-home services for the frail elderly under a new part D; services to meet the special needs of the elderly under a new part E; health education and promotion activities under a new part F; elder abuse prevention activities under a new part G; long-term care ombudsman services; and outreach services to older persons potentially eligible for other Federal benefit programs. While State and area agencies have had responsibilities in these areas under prior law, separate authorizations of title III funds were not specified. Except for in-home services for the frail elderly, the law included a funding "trigger" precluding appropriations for these separate authorizations unless total appropriations for programs funded in fiscal year 1987 exceed the previous year's level by at least 5 percent. The funding restriction applies through fiscal year 1990.

The provisions of Public Law 100–175 relating to these separate authorizations of appropriations are described below, followed by a description of other title III provisions.

1. NON-MEDICAL IN-HOME SERVICES FOR THE FRAIL ELDERLY

In recognition of the projected demand for a range of community-based long-term care services by the elderly, the law included a separate authorization of funds for non-medical in-home services for frail older persons. While in-home services have been authorized under the Act for some time, and have been considered a priority service for which some title III funding was required since 1975, no separate authorization of funds was made under prior law. Public Law 100–175 created a new part D authorizing $25 million in fiscal year 1988, $26.3 million in fiscal year 1989, $27.6 million in fiscal year 1990, and $28.9 million in fiscal year 1991 for the following services: Homemaker and home health aide; visiting and telephone reassurance; chore maintenance; in-home respite care, and adult day care as a respite for families; and minor modification of homes not to exceed $150 per client.

Under this new authority, State agencies on aging will receive funds based on the current title III formula (that is, based on the State's share of the population 60 years or over as compared to all States), and will in turn award funds to area agencies on aging. State agencies are required to develop eligibility criteria for the use of in-home services, taking into account factors such as age, and other factors relating to the need for services on the part of the frail elderly. The law defines "frail" elderly as those having a physical or mental disability, including Alzheimer's disease or a related disorder with neurological or organic brain dysfunction, that restricts their ability to perform daily tasks or threatens their capacity to live independently.

State and area agencies are required to coordinate in-home services authorized under this authority with other agencies providing similar or related services. In addition, the law specifies that funds under part D may not be used to supplant any funds that are or would otherwise by spent under any Federal, State, or local law by a State or unit of general purpose local government. This includes area agencies on aging which have in their planning and service areas existing services which primarily serve older victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and their families.

2. ASSISTANCE FOR SPECIAL NEEDS

The law contains a new part E—authorizing funds to enable States to meet special needs of older persons. Activities specified by the law to be supported with special needs funds include transportation, outreach, targeting services to those with the greatest economic or social need, long-term care ombudsman services, and other services where there is unmet need. States are given wide discretion in the use of these funds. In its approval of this amendment, the House Committee on Education and Labor stated:

> While the current terms of the Older Americans Act enumerate many specific services and programs which must be conducted for the benefit of senior citizens, the new resources provided through Part E are unearmarked, giving the States maximum flexibility and discretion in their use.[7]

The law authorizes $25 million for each of fiscal years 1988 and 1989 and such sums as may be necessary for fiscal years 1990 and 1991. As in the other new title III authorizations created by the law (except for in-home services under part D), the funding for assistance for special needs is subject to the appropriations trigger.

3. HEALTH EDUCATION AND PROMOTION ACTIVITIES

The law created a separate authorization of funds under title III for health education and promotion activities under a new part F. Under an amendment added by the 1984 reauthorization of the Act, States are required to spend a portion of their title III allotment on health and nutrition education services, but no separate amount was authorized to carry out these activities. Public Law 100–175 specifically authorized $5 million for fiscal year 1988 and such sums as may be necessary for each of fiscal years 1989–91. Grants are to be made to States under approved plans on aging, and States are to distribute funds to medically underserved areas of the State and areas where there are large concentrations of economically needy older persons.

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[7] U.S. Congress. House. Committee on Education and Labor. Older Americans Act Amendments of 1987. House Report No. 100–97, 100th Cong., 1st Sess. p. 10.

The amendment calls for periodic preventive health services primarily in congregate settings. Funds are to be used for routine health screening, group exercise, home injury control services, nutritional counseling and education, programs to prevent depression and activities to coordinate mental health services, and educational programs on the benefits and limitations of Medicare and supplemental insurance coverage. In order to assist State and area agencies to offer effective health promotion programs, the law also includes a provision to assure that discretionary funds under title IV be used to develop prototype health promotion and education programs through institutions of higher education.

Funding for this new authorization is subject to the appropriations trigger.

4. ELDER ABUSE PREVENTION SERVICES

The law added a separate authorization of funds for elder abuse prevention services under a new part G. While prior law allowed each State to decide whether to provide such services under a State plan on aging, no specific amount of title III funds was set aside for this purpose. Public Law 100-175 authorized $5 million in fiscal year 1988 and such sums as may be necessary for each of fiscal years 1989-91. As under the prior law provision, the amendment requires States to undertake a variety of activities, including public education and outreach activities to identify abuse, neglect, or exploitation, procedures for reporting of such cases, and coordination of the State agency on aging program with State and local adult protective service activities. Involuntary or coerced participation by alleged victims, abusers, or their households is prohibited.

The Conference Report on H.R. 1451 recognized that cooperation on elder abuse protection activities is necessary. It stated, as follows:

> The Conferees recognize that the laws of some States give authority over elder abuse prevention and protection to agencies outside of the aging network. The Conferees intend that the requirements of this section be carried out strictly within the confines of pertinent State laws. Area agencies on aging are expected to use these funds to complement and supplement, not duplicate, existing elder abuse prevention and protection programs.[8]

Funding for elder abuse prevention activities is subject to the appropriations trigger. If no new appropriations are available, the prior law provision which permits the State agency to establish such a program is to prevail.

5. LONG-TERM CARE OMBUDSMAN SERVICES

In addition to the expanded role for State and area agencies for home care services under part D described above, Public Law 100-175 strengthened various requirements affecting services for institutionalized older persons under the long-term care ombudsman program, and added a separate authorization of appropriations.

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[8] U.S. Congress. House. Conference Report, p. 77.

The amendments were intended to respond to recommendations made by a 1986 Institute of Medicine report on improving the quality of care in nursing homes.

Under provisions added to the law in 1978, each State agency on aging is required to establish and operate a long-term ombudsman program to investigate and resolve complaints of long-term care facility residents (skilled nursing facilities, intermediate care facilities, board and care homes, and other adult care homes). Prior law required States to spend a minimum amount of funds to operate the ombudsman program (1 percent of the State allotment for title III supportive services under part B, or $20,000, whichever is greater); no separate authorization of funds was specified. Public Law 100-175 authorized $20 million in fiscal year 1988 and such sums as may be necessary for the next 3 years, to carry out the ombudsman program, and modified the State minimum expenditure requirement (as described below). Funding is subject to the appropriations trigger.

Other provisions of Public Law 100-175 relating to the ombudsman program:

—designate as responsible for carrying out the program, an "Office of the State Long-Term Care Ombudsman";

—require the Office to include local ombudsman entities as subdivisions of the Office. Representatives of the local entity, either employees or unpaid volunteers, are to be treated as representatives of the Office;

—require the Office to prepare an annual report on data and findings regarding the types of problems and complaints of residents of long-term care facilities, and to make policy, regulatory, and legislative recommendations to solve such problems, resolve complaints, and improve quality of care and life in the facilities;

—expand on the prior law provision by requiring the Office to analyze and monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities and services, and to recommend necessary changes;

—expand on the prior law requirement to specify that complaints include action, inaction or decisions of providers, or their representatives, of long-term care services, or public agencies, or of social service agencies, which may adversely affect residents;

—require the Commissioner to provide technical assistance and training to State long-term care ombudsman programs and to representatives of the program; require the Office to provide training of staff and volunteers on Federal, State, and local laws, regulations, and policies regarding facilities and investigative techniques; prohibit an Office representative from investigating a complaint unless he/she has received training and has been determined to be qualified to do the investigation:

—require the State agency on aging to prohibit conflict of interest in designating the ombudsman or the head of any subdivision of the Office. The law also prohibits conflict of interest for officers, employees, or other Office representatives and requires that procedures be in place to identify conflict of interest;

—require the State agency on aging to assure that legal counsel is available to the Office and that there will be legal representation in the case of legal action against any Office representative. The Office must be able to pursue administrative, legal, and other appropriate remedies on behalf of residents;

—require the State to protect Office representatives from liability under State law for good faith performance of official duties;

—require the State to make unlawful, any willful interference with ombudsmen in the performance of official duties. The law also prohibits retaliation and reprisals by long-term care facilities or other entities against residents or employees for having filed a complaint or providing information to the Office. Sanctions are required in the case of interference or retaliation;

—require the State to assure Office access to facilities, residents and resident medical and social records, with the permission of residents or their legal guardians;

—require the Office to provide information to public agencies, legislators, and others as deemed necessary, regarding the problems and concerns of residents and to make recommendations to improve their situation; and

—require the Office to coordinate ombudsman services with protection and advocacy systems for developmentally disabled and mentally ill persons.

The law contained a number of provisions relating to a State's commitment of funds to the ombudsman program. Although a separate amount is authorized for the program under Public Law 100–175, the Conferees noted that States are required to implement the amendments regardless of the appropriations level. The prior law minimum expenditure amount provision was modified to require that States spend, at a minimum, the same total amount on ombudsman services from Federal sources as they spent in fiscal year 1987; they may use funds from new appropriations, if any, or from funds allotted under the part B supportive services category, to meet this minimum amount. In addition, all funds appropriated pursuant to the new authorization for ombudsman programs must be expended for this program.

Another provision of the law requires the Commissioner on Aging to conduct a study of the impact of the ombudsman program on care of residents of board and care facilities and other similar adult care homes, and the effectiveness of recruiting, supervising, and retaining volunteer ombudsmen. A report on this study is to be submitted to Congress by December 31, 1989.

6. OUTREACH TO OLDER PERSONS ELIGIBLE FOR OTHER FEDERAL BENEFIT PROGRAMS

The law authorized a program to expand outreach services to older persons who may be eligible for, but who are not receiving, benefits under the SSI, Medicaid, and Food Stamp programs. It authorized $10 million for each of fiscal years 1989 and 1990 for grants to States to inform older persons about their potential eligibility for these programs and to assist them in applying for assistance. Funding for this authorization is subject to the appropriations trigger.

Under this authority each State would be assured a minimum of $50,000. In distributing funds within the State, the State agency is to give priority to area agencies based on an evaluation of the number of older persons in greatest economic need in the planning and service area as well as the inadequacy of existing outreach activities.

During fiscal year 1988 the Commissioner is to compile descriptions of successful outreach programs which may be of assistance to area agencies interested in participating in this program. The law also prescribes requirements for distribution of information on eligibility under the three programs, as well as application, evaluation, and reporting requirements.

7. FLEXIBILITY IN PROVIDING CERTAIN SERVICES UNDER AREA PLANS ON AGING

Under prior law, each area agency on aging was to provide assurances that it would spend an "adequate proportion" of its allotted funds for supportive services on three categories considered as priorities under the area plan. These are access services (transportation, outreach, and information and referral); in-home services (homemaker and home health aide, visiting and telephone reassurance, chore maintenance, and supportive services for families of elderly victims of Alzheimer's and related diseases); and legal assistance. Public Law 100-175 changed this requirement to stipulate that each State agency is to set a minimum percentage of funds to be used for these three service categories by each area agency. The Conference Report on H.R. 1451 further explicated this change, as follows:

> If an area agency expends at least the minimum percentage set by the State, the area agency will have fulfilled the requirement to spend an adequate proportion of funds on such services. The minimum percentage is intended to be a floor, not a ceiling. Area agencies on aging are encouraged to devote additional funds to each of these service areas to meet local needs.[9]

While the new law requires the State agency to set a minimum proportion of funds for these services, it leaves intact a prior law stipulation that the State agency waive the "adequate proportion" requirement if the area agency demonstrates that services being furnished in the area are sufficient to meet the need. With respect to consideration of whether the need for legal assistance is being adequately addressed in the planning and service area, the Conferees noted in the Conference Report that they expect State and area agencies to take into account services being provided by the Legal Services Corporation, the private bar, or groups within the private bar furnishing services to older individuals on a pro bono and established reduced fee basis in that planning and service area.[10]

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[9] U.S. Congress. House. Conference Report, p. 70-71.

[10] Ibid., p. 71.

Public Law 100-175 also expanded upon certain procedural requirements pertaining to the granting of a waiver of the "adequate proportion" provision included in the 1984 reauthorization of the Act. That law specified that before an area agency requests a waiver, it must conduct a public hearing and provide notification to interested parties of an opportunity to testify. The area agency is required to furnish a record of the public hearing with the request for a waiver to the State agency. Public Law 100-175 added certain requirements the State agency must follow in granting a waiver by specifying that when it proposes to grant a waiver, it must publish its intent and justification to do so, at least 30 days prior to the effective date of the waiver. If, during this 30-day period, an individual or a service provider from the area requests a hearing with respect to the waiver, the State agency is to afford these individuals or providers a hearing. The Conference Report further explicated this provision, as follows:

> The Conferees also note that they do not intend to require the State agency to hold a separate hearing for each individual or provider who requests such a hearing, but that a single hearing at which each individual or provider may testify is sufficient to meet the intent of this section. Furthermore, the hearing may be conducted as part of other hearings being held by the State agency.[11]

Public Law 100-175 also required that if the State agency grants a waiver, it must provide to the Commissioner a report on the information submitted by the area agency to justify the waiver, and a copy of the public hearings held on the waiver.

8. TARGETING OF SERVICES UNDER STATE AND AREA PLANS ON AGING; DOCUMENTATION OF SERVICES TO LOW-INCOME MINORITIES

In response to some reports during hearings on the Act in 1987 about lack of adequate targeting of services to low-income and minority groups, the law incorporated a number of provisions designed to strengthen prior law requirements with respect to planning and service delivery for these older persons. These provisions include requirements that State and area plans on aging identify the number of low-income and minority older persons in the State or planning and service area, and describe methods used to meet their needs in the previous year. Further, State agencies, in dividing the State into planning and service areas, and area agencies, in developing comprehensive and coordinated services systems, are required to consider the number of older persons with the greatest economic or social need, with particular attention to low-income minority older persons. Provisions were also added to assure effective outreach to such individuals and to require that evaluation of these outreach efforts takes place.

Another new requirement is intended to assure that service providers under the area plan on aging focus on the needs of low-income minority older persons. Service providers are required to specify how they will meet the needs of this group and to attempt to provide services to such individuals in at least the same proportion as they represent the total older population in the area.

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[11] U.S. Congress. House. Conference Report, p. 71.

9. Coordination of Title III Services With Other Community Services on Behalf of Specified Groups

In addition to the provisions relating to the targeting of services as described above, Public Law 100–175 contained specific amendments requiring the coordination of title III services on behalf of specific groups of older individuals. Various provisions focus on the needs of persons with mental illness, victims of Alzheimer's disease and their families, the disabled, and persons in need of community-based long-term care services. These provisions are summarized below.

A. COORDINATION OF MENTAL HEALTH SERVICES

Public Law 100–175 added new provisions to focus efforts on the coordination of title III services with mental health services. First, it specified that the Commissioner may request the technical assistance and cooperation of the Alcohol, Drug Abuse, and Mental Health Administration in the administration of title III programs. Second, it required area agencies to coordinate mental health services funded with title III–B supportive services funds with mental health services provided by community mental health centers and by other public agencies and nonprofit private organizations.

B. COORDINATION OF PRIORITY SERVICES ON BEHALF OF VICTIMS OF ALZHEIMER'S DISEASE AND THEIR FAMILIES

The law also required area agencies to coordinate priority services under the area plan (access, in-home, and legal assistance) with activities of community-based organizations established for the benefit of victims of Alzheimer's disease and their families.

C. SERVICES TO INDIVIDUALS WITH DISABILITIES

Various provisions of Public Law 100–175 focus on the special needs of older persons with disabilities. In explaining these provisions, the Committee on Labor and Human Resources stated in its Report:

> Like the growing population of elderly in the United States, there is also a growth in the number of elderly persons with disabilities, including those with severe or lifelong disabilities. Although many of their needs are similar to the needs of other older persons, older individuals with disabilities face a number of unique problems which are often compounded by having had a disability over a lifetime. The Committee recognizes that older individuals with disabilities are already included under the Act, but believes that reaffirming their inclusion and focusing services to meet their special needs is appropriate.[12]

The law required State plans on aging to assure that the State agency will coordinate planning, identification, and assessment of needs and services for older individuals with disabilities, particularly those with severe disabilities, with State agencies having primary responsibility for these groups. (These may include, for example, agencies having responsibility for habilitation and health services.) In addition, area agencies are required to inform disabled elderly persons of services under the Act.

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[12] U.S. Congress. Senate. Committee on Labor and Human Resources, p. 51.

Another provision allows nutrition service administrators to offer meals to disabled individuals who reside with and accompany older persons who are eligible under the Act.

D. COORDINATION OF COMMUNITY-BASED LONG-TERM CARE SERVICES

Public Law 100–175 also added a requirement that the State plan assure that area agencies will conduct efforts to facilitate the coordination of community-based long-term care services for the following groups: Older individuals who reside at home and are at risk of institutionalization because of limitations on their ability to function independently; older individuals who are patients in hospitals and are at risk of prolonged institutionalization; and, older individuals who are patients in long-term care facilities but who could return to their homes if community-based services were provided.

10. Area Agency Administration

The law contained two provisions with respect to the administration of the area agency. First, it raised the allowable proportion of title III services funds which may be used for area plan administration. Prior law had allowed up to 8.5 percent of a State's allotment for services to be used for administration. Public Law 100–175 raised the allowable proportion to 10 percent.

Second, the law clarified that when an area agency is located within an umbrella agency it must act only as the area agency on aging. Specifically, the law was amended to require that when an area agency is part of a unit of general purpose local government, part of any combination of general purpose local government, or part of any public or nonprofit private agency, the entity designated to be the area agency must function only as the area agency on aging. The Conference Report on H.R. 1451 indicated that an area agency may continue to be housed within an umbrella agency, as long as it remains an identifiable unit. The Report further stated that an area agency located within an umbrella unit may absorb its equitable share of expenses incurred by the operation of the aging program as allowable under an indirect cost allocation plan, provided such a plan has not been explicitly rejected by a relevant Federal agency.[13]

11. Public Hearings Requirements

The law contained requirements that State and area agencies will conduct periodic public hearings on activities carried out under State and area plans on aging. Prior law contained no specific requirement for public hearings.

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[13] U.S. Congress. House. Conference Report, p. 68.

12. CONFIDENTIALITY OF INFORMATION REGARDING LEGAL ASSISTANCE

Public Law 100-175 added new requirements to protect the confidentiality of clients of legal assistance services. It prohibits States, State agencies on aging, and area agencies on aging from requiring any title III legal assistance providers to reveal information protected by the attorney-client privilege.

In explaining this provision, the Report of the House Committee on Education and Labor stated:

> The Committee's intent in including the new confidentiality provisions is to clarify that names, addresses, and telephone numbers of clients served with Older Americans Act funds will remain privileged information. The Committee understands that some legal assistance providers may be reluctant to contract with area agencies without this assurance. Many older individuals might be hesitant to ask for the legal advice and counsel they need if they thought others would have access to their identifying information. The assurance of confidentiality makes it easier for older persons to seek the assistance they need to resolve their legal problems, and makes it easier for legal assistance providers to serve them in good faith.[14]

13. AREA AGENCY ADVISORY COUNCIL MEMBERSHIP

Prior law required each area agency to establish an advisory council and specified membership composition, including older participants under the Act and their representatives, and local elected officials. Public Law 100-175 added a provision to expand the membership to include providers of veterans' health care, if appropriate.

14. OUTREACH REGARDING TUITION-FREE POST-SECONDARY EDUCATION

Under Public Law 100-175 area agencies are required to compile information on the courses available at institutions of higher education in their planning and services areas and those that are available at reduced or no fees. This information is to be made available to older persons at multipurpose senior centers, congregate nutrition sites, and other appropriate sites.

15. ADULT DAY CARE AND RESPITE SERVICES PROVIDED BY VOLUNTEERS

Prior law requires area agencies on aging, where possible, to assist older persons to volunteer in child day care programs. Public Law 100-175 added to this provision, a stipulation that area agencies also assist in arranging for older persons to volunteer in adult day care programs and in respite care services for families.

16. SERVICES UNDER TITLE III TO OLDER INDIANS

Public Law 100-175 added a number of new provisions requiring State and area agencies to focus on the needs of older Indians, including requirements that the distribution of this group be considered when planning services within the State and the planning and service area. The law also added a new provision requiring area agencies to conduct outreach activities to identify older Indians and inform them of services under the Act if their population is a significant one within the planning and service area.

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[14] U.S. Congress. House. Committee on Education and Labor, p. 12.

Other provisions to clarify the eligibility of Indians to receive services under both title III and the title IV grant program for Indians were added. For a description of these provisions, see section of this report on title VI.

17. TRANSFER OF FUNDS BETWEEN TITLE III FUNDING CATEGORIES

State agencies on aging receive separate allotments of funds for supportive services (title III–B) and nutrition services (title III–C) and in recent years they have been allowed to transfer funds between these service categories. The 1984 amendments to the Act specified that States could transfer up to 30 percent of these separately allotted funds between the two categories in fiscal year 1987 (with lower percentages the prior 2 fiscal years). Public Law 100–175 set the allowable transfer at 30 percent for the period of the reauthorization (through fiscal year 1991). The Conference Report clarified that this transfer authority applies only to the supportive services and nutrition services categories.[15]

18. INFORMATION ON ASSISTIVE TECHNOLOGY

Under the listing of services which may be provided with title III–B supportive services funds, Public Law 100–175 includes reference to "assistive technology." This is defined as technology, engineering methodologies, or scientific principles appropriate to meet the needs of, and address the barriers confronted by, older individuals with functional limitations. In describing the need for assistive technology services, the Report of the Committee on Labor and Human Resources stated:

> Technology can have a significant impact on the functional ability and the vitality of older Americans and assist them to maintain their independence, maximize their options, and improve the quality of their lives. . . . [Assistive technology] services constitute a systematic approach for enabling older individuals to obtain the products, services and information they need in order to appropriately use technology to compensate for functional limitations or disabilities.[16]

19. REDUCTIONS IN PAYMENTS TO STATES

Prior law contained a provision which reduced a State's title III allotment if expenditures from State sources decreased from the amount expended the prior year. Public Law 100–175 changed this provision to specify that the reduction will take place if the amount expended by the State is less than the average annual amount expended over the prior 3 years rather than just the previous year.

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[15] U.S. Congress. House. Conference Report, p. 83.

[16] U.S. Congress. Senate. Committee on Labor and Human Resources, p. 53.

D. TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

The title IV program authorizes the Commissioner to award funds for a broad array of training, research, and demonstration programs in the field of aging.

Public Law 100-175 added authority under title IV for several new demonstration authorities, including areas related to health education and promotion, volunteerism, coordination of the long-term care ombudsman program with protection and advocacy systems for the disabled, and consumer protection activities in long-term care. For these latter two areas, the law authorized separate funding amounts distinct from the overall title IV funding. The law also made mandatory the funding of long-term care gerontology centers which were previously supported at the discretion of the Commissioner. Various provisions of title IV were modified to emphasize service to low-income and minority older persons.

1. Prototype Health Education and Promotion Programs

As discussed in the section on title III above, Public Law 100-175 added new authority enabling State and area agencies to undertake health education and promotion activities. At the same time the law repealed title VII, created by the 1984 amendments to the Act, which required the Secretary of DHHS to establish a personal health education and training program in AoA through institutions of higher education. This program was never funded. To replace the initiative embodied in the title VII program, Public Law 100-175 added a provision giving the Commissioner authority to make title IV funds available to institutions of higher education for the purpose of designing and developing prototype health education and promotion programs for use by State and area agencies which are implementing preventive health service programs.

2. Volunteer Opportunities

The law added new authority for the conduct of various projects to expand innovative volunteer opportunities for older persons. It requires the Commissioner to give special consideration to projects which will promote intergenerational activities where older persons serve as volunteers in tutorial services in elementary and special schools, after school programs for latch key children, and day care programs. Special consideration is also to be given to volunteer service credit projects permitting elderly volunteers to earn credits for services which they furnish and which may latter be redeemed by them for similar volunteer services. The law specifies that these latter projects are to be operated in conjunction with ACTION.

3. Long-Term Care Ombudsman and Protection and Advocacy System Demonstration Projects

A new provision authorizes the Commissioner to conduct projects to demonstrate and evaluate cooperative efforts between the State long-term care ombudsman program and the State protection and advocacy system for the developmentally disabled and mentally ill established under the Developmental Disabilities Assistance and Bill of Rights Act and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986. The law authorizes $1 million for fiscal year 1989 to carry out this activity in 3 to 10 States, and specifies that these funds may be used in fiscal year 1990. The Report of the Conferees on H.R. 1451 indicated that examples of the types of joint projects to be funded are structured evaluations of the need for additional mental health services, programs to encourage nursing home residents to take part in their habilitation plan, and the development of programs to prepare individuals to live in nursing homes.[17] Funding for these projects is subject to the appropriations trigger specified in the law, that is, funds may not be appropriated to carry out these projects unless total appropriations for programs funded in fiscal year 1987 increase by at least 5 percent over the previous fiscal year.

In addition to this demonstration authority, the amendments added provisions intended to place more emphasis on the needs of disabled populations in the conduct of Older Americans Act training, research, and demonstration activities.

4. Consumer Protection Demonstration Projects for Services Provided in the Home

The Commissioner is authorized to award title IV funds to demonstrate and evaluate the effectiveness of consumer protection for older persons who receive publicly funded services (exclusive of medical services) at home. These projects may provide consumer protection through State and local ombudsmen, legal assistance agencies, and other agencies and may include consumer education, the use of hotlines, receipt and resolution of consumer complaints, and advocacy. Grants are authorized in 6 to 10 States.

The Commissioner is required to report to Congress on the results of these demonstration projects and to make recommendations as to the desirability and feasibility of carrying out a home care consumer protection program on a nationwide basis.

To carry out this program, the law authorizes $2 million in each of fiscal years 1989 and 1990. Funding is subject to the appropriations trigger.

5. Special Projects in Comprehensive Long-Term Care

The law makes mandatory the prior law discretionary authority of the Commissioner to support special projects in comprehensive long-term care. In explaining the rationale for making this a required title IV activity, the Report of the Committee on Education and Labor states:

> In requiring under Title IV (section 423(a)(1)) that the Commissioner make grants for special projects in comprehensive long-term care, it is the Committee's expectation that such grants be made to fund centers, and not simply individual projects, specializing in long-term care research, education, and training. The Committee further expects: That such grants be

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[17] U.S. Congress. House. Conference Report, p. 80.

awarded on a competitive basis; that center activities place particular emphasis on research, education, and training that support providers and services funded under the Older Americans Act; that center activities focus on areas of speciality within long-term care and not be duplicative or limited to a particular geographical region; and the Commissioner will formally evaluate center performance annually and factor results into renewal decisions.[18]

6. Emphasis on Serving Older Minority Groups Under Title IV

In various sections of title IV, the law added provisions intended to place more emphasis on serving the needs of older minority group members. For example, the law was amended to assure that title IV grants and contracts are equitably awarded to agencies, organizations, and institutions representing minorities, and that training activities and multidisciplinary centers of gerontology focus on minorities.

E. TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

The Community Service Employment program authorizes funds to subsidize part-time community service jobs for unemployed, low-income persons 55 years of age or older. Funds are awarded to eight national organizations and to State agencies. Enrollees are paid at the Federal or State minimum wage or the local prevailing rate of pay for similar employment. The amendments in Public Law 100-175, among other things, changed the allowable administrative cost cap for the program, and liberalized eligibility requirements under other Federal programs for persons who may be receiving wages under the title V program.

1. Administrative Cost Cap

The 1984 amendments to the Act for the first time set a legislatively imposed cap on the amount of title V funds allowable for administration. That legislation set the maximum amount for administration at 13.5 percent for fiscal year 1986, to be lowered to 12 percent in fiscal year 1987 and succeeding years; however, it allowed the Secretary of Labor to waive these requirements and raise the cap to 15 percent if necessary. Public Law 100-175 modified the prior law by setting the administrative cap at 13.5 percent, but retained the provision allowing the Secretary to raise the cap to 15 percent. It further stipulated that the Secretary allow a higher proportion of title V funds for administration, up to 15 percent, under the following circumstances: When major administrative cost increases are incurred in necessary program components, including liability insurance, workers' compensation, costs associated with achieving unsubsidized placement goals, and other required activities; when the number of employment positions in the project or minority eligible participants will decline if the cap is not increased; or, when the project size is so small that the costs of administration necessarily exceed 13.5 percent.

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[18] U.S. Congress. House. Committee on Education and Labor, p. 14. The report of the Committee on Labor and Human Resources contained similar language.

2. CONSIDERATION OF POVERTY AND UNEMPLOYMENT RATES IN PROVIDING EMPLOYMENT SERVICES

Prior law required that each title V project provide assurances that to the extent feasible, it will serve the needs of minority, Indian, and limited-English speaking eligible individuals in proportion to their numbers in the State. Public Law 100-175 added to this provision a stipulation that projects take into consideration the rates of poverty and unemployment when serving eligible persons in the State.

3. AWARD OF FUNDS TO NATIONAL INDIAN AGING ORGANIZATIONS AND NATIONAL PACIFIC ISLAND AND ASIAN AMERICAN AGING ORGANIZATIONS

Public Law 100-175 added a new provision requiring the Secretary of Labor to award title V funds to assist older Indians and Pacific Islanders and Asian Americans in obtaining employment services. It added a requirement that some title V funds be reserved for national grants or contracts with public or nonprofit national Indian aging organizations and national public or nonprofit Pacific Island and Asian American aging organizations. This provision is to become effective in the first fiscal year in which title V appropriations exceed the fiscal year 1987 level.

The law defines Pacific Island and Asian Americans as Americans having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.

4. DISTRIBUTION OF INFORMATION UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT

The law requires the Secretary of Labor and title V grantees to distribute to program participants information to help them identify age discrimination and to understand their rights under the Age Discrimination in Employment Act. (This Act prohibits discrimination in employment on the basis of age, including mandatory retirement, for most workers over the age of 40.) These informational materials are to be supplied to title V grantees and enrollees at no cost.

5. EFFECT OF TITLE V INCOME ON PARTICIPATION IN FEDERAL HOUSING AND FOOD STAMP PROGRAMS

Under prior law, wages received by title V enrollees were counted when determining eligibility for Federal housing and Food Stamp programs. The effect of this requirement was that title V enrollees could be determined ineligible or have benefits under these programs reduced to some extent. Public Law 100-175 added a new provision to exclude title V wages received by enrollees from consideration when determining eligibility for Federal housing and Food Stamp programs. (Eligibility for other benefit programs was not affected.) The Conference Report on H.R. 1451 clarified that this provision is intended to apply to determination of eligibility as well as to the determination of the level of subsidy for which an individual qualifies.[19]

F. TITLE VI—GRANTS FOR NATIVE AMERICANS

Prior to the enactment of the Older Americans Act Amendments of 1987, title VI of the Act authorized funds for grants to Indian tribes for supportive and nutrition services that are comparable to those provided under title III. Public Law 100-175 expanded the title to include a new Part B authorizing funds for Native Hawaiians. It also added a statement expressing the sense of Congress that older Indians, Alaskan Natives, and Native Hawaiians are a vital resource entitled to all benefits and services available and that services should be provided to them in a manner that preserves and restores their dignity, self-respect, and cultural identities.

1. Provisions Relating to Older Indians: Congressional Statement of Findings and Eligibility for Assistance

Public Law 100-175 added a new section setting out 10 findings of Congress regarding the status of older Indians. These findings state the following: Older Indians are a rapidly increasing population in the United States; suffer from high unemployment; have a poverty rate estimated at 61 percent; have a life expectancy between 3 and 4 years less than the general population; lack sufficient nursing homes, other long-term care facilities, and other health care facilities; lack sufficient Indian area agencies on aging; frequently live in substandard and over-crowded housing; and receive less than adequate health care. In addition, Congress stated that less than 19 percent of the total national Indian elderly population is served by the title VI program, and that less than 1 percent of the participants under the State and area agency on aging program (title III of the Act) are older Indians.

The amendments changed prior law provisions on eligibility for title VI services. The first provision amended the law to make a tribal organization eligible for title VI funds if it has at least 50 older Indians, as compared to the prior law provision which specified that the tribal organization must have at least 60 older Indians in order to receive funds. Second, Public Law 100-175 eliminated prior law provisions prohibiting individuals or tribal organizations receiving services or funds under title VI from also benefitting from the title III program. As amended, the law now allows older Indians to receive assistance under both the title VI and title III programs. The Report of the Committee on Education and Labor explained that this change corrects an "unintended effect of existing law which can result in making ineligible for Title III services older Indians who could be served by a Title VI grant but are not, or in making the older Indians who receive only one type of service under Title VI ineligible for any other services under Title III." The Report also indicated that the change was intended to assist tribal organizations and area agencies to broaden the scope of cooperative efforts.[20]

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[19] U.S. Congress. House. Conference Report, p. 81.

2. PROVISIONS RELATING TO NATIVE HAWAIIANS: CONGRESSIONAL STATEMENT OF FINDINGS AND ELIGIBILITY FOR ASSISTANCE

The law added a new part B, Native Hawaiian Program, and specified separate authorizations of appropriations for it within the overall authorization amount for title VI. (See table 1 for amounts authorized.) Part B is prefaced by a statement of congressional findings on the status of older Native Hawaiians. These findings state that this group has a life expectancy 10 years less than any other ethnic group in the State of Hawaii; ranks lowest on 9 of 11 standard health indices for all ethnic groups in the State; is often unaware of social services; and has a poverty rate of 34 percent.

The new part B defines organizations eligible for funds and grant requirements. It specifies that a public or nonprofit organization which has the capacity to provide services to Hawaiian Natives is eligible if the organization will serve at least 50 persons aged 60 or older, and the organization can deliver supportive services, including nutrition services. Applications for part B funds must provide that the organization will: Evaluate the need for services among those to be represented by the organization; coordinate activities with the State agency on aging; adhere to reporting requirements to be specified by the Commissioner; periodically evaluate its activities; establish objectives and indicate how they will be achieved; establish and maintain information and referral services for older Hawaiians; establish a preference for hiring older Hawaiians for full- or part-time positions, where feasible; make any legal or ombudsman services to be provided under the grant meet the requirements established for such services under title III of the Act; and use proper and efficient methods of administration and fiscal and accounting procedures.

The Commissioner is required to approve any application which meets the grant requirements for at least a 12-month period. If an application is not approved, the Commissioner is required to provide written objections within 60 days after the decision not to fund; provide technical assistance to the applicant to overcome the objections; and afford the organization a hearing.

G. TITLE VII—OLDER AMERICANS PERSONAL HEALTH EDUCATION AND TRAINING PROGRAM

This title, added by the 1984 amendments to the Act, never received an appropriation and was repealed by Public Law 100-175. However, an amendment added by the new law to title IV of the Act was intended to preserve its intent. As described earlier, this title IV provision authorizes the Commissioner to commit funds to institutions of higher education to develop prototype health education and promotion programs to be used by the network on aging.

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[20] U.S. Congress. House. Committee on Education and Labor, p. 16. The report of the Committee on Labor and Human Resources on S. 557 contained almost identical language.

H. OTHER PROVISIONS

This section summarizes other provisions of Public Law 100–175 which affect the elderly.

1. CONSUMER PRICE INDEX FOR OLDER AMERICANS

Public Law 100–175 requires the Secretary of Labor to develop an index of consumer prices to reflect the consumption expenditures for persons 62 years or older. The Secretary is to provide this index to Congress within 180 days after the enactment of Public Law 100–175, including a report on the research necessary to develop and accurately measure the rate of inflation for older persons. The Conference Report on the law indicates that this is to be a one-time report, not an ongoing expectation, intended for use by Congress in considering the advisability of continuing such an index.[21]

2. WHITE HOUSE CONFERENCE ON AGING

Public Law 100–175 authorizes the President to call a White House Conference on Aging in 1991. The conference is to be planned and conducted under the direction of the Secretary of DHHS in cooperation with the Commissioner on Aging, the Director of the National Institute on Aging, and heads of other appropriate Federal departments and agencies.

As set forth by the law, the purpose of the conference is: To increase awareness of the contributions of older individuals to society; to identify problems as well as the well-being of older individuals; to develop recommendations for the coordination of Federal policy with State and local needs; to develop specific and comprehensive recommendations for both executive and legislative action to maintain and improve the well-being of older individuals; and, to review the status of recommendations adopted at previous White House conferences. The law specifies that conference recommendations are not to be influenced by any appointing authority or by any special interest, but be the result of independent judgment of the conference.

The conference is to bring together representatives of Federal, State, and local governments, persons working in the field of aging, and the general public, particularly older persons. Delegates are to be selected without regard to political affiliation or past partisan activity and are to represent the spectrum of thought in the field of aging. Conference committees are to be composed of professional and public members, and are to include low-income and minority group representation. A majority of the public members of committees are to be 55 years or older.

The law also sets forth requirements as to the conference agenda and reporting requirements.

3. AMENDMENTS TO THE NATIONAL SCHOOL LUNCH ACT

The law amends the National School Lunch Act to permit adult day care centers to receive reimbursement under the Child Care Food program for meals or meal supplements (snacks) to persons 60 years or older or to chronically impaired disabled persons. (Previously the Child Care Food program provided funds for food service only to children in child care centers and family and group day care homes.) Program sponsorship for adult day care centers is limited to public and private nonprofit sponsors, and for-profit sponsors if they receive compensation for adult day care under the Medicaid or Social Services Block Grant (SSBG) programs for at least 25 percent of their enrollees. In order to participate, day care centers must be licensed or approved by Federal, State, or local authorities to provide care in a group setting on a less than 24-hour basis and maintain professional management responsibility for all services. Centers determined eligible to receive funds under this provision may also receive funds under the Older Americans Act nutrition programs, but may not receive benefits or reimbursement from both programs for the same meal served.

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[21] U.S. Congress. House. Conference Report, p. 84.

4. ALZHEIMER'S DISEASE TRIALS

The Director of the National Institute on Aging is authorized to conduct clinical trials on the efficacy of using therapeutic agents to treat Alzheimer's disease, to retard the progression of symptoms of the disease, or to improve the functioning of Alzheimer's patients.

5. DEMONSTRATION PROJECTS FOR HEALTH CARE SERVICES IN THE HOME UNDER THE PUBLIC HEALTH SERVICE ACT

The Public Health Service Act was amended to authorize 3-year demonstration projects to expand health care services in the home. The amendment consists of two parts. The first authorizes the Secretary of DHHS to award funds to at least three, but no more than five States to seek ways to expand health care services in the home for low-income persons who might otherwise require lengthy hospital stays or institutionalization. Funds would support projects to identify the need for, to finance, and to coordinate skilled medical and/or related health services, but are not to be used to pay for currently financed public or private health care services. At least 25 percent of individuals to receive services must be 65 years or older.

The second part of this amendment authorizes the Secretary to award funds for demonstration projects in at least three, but no more than five, States to assist individuals with Alzheimer's disease and their families. The projects are to be designed to coordinate activities in the State relating to diagnosis, treatment, care management, respite care, legal counseling, and education services on behalf of Alzheimer's patients and their families, to provide home health care and other services, and to develop information programs on Alzheimer's disease.

For each of these parts, the law authorizes $5 million for each of fiscal years 1988, 1989, and 1990.

I. EFFECTIVE DATES

The Older Americans Act Amendments were effective October 1, 1987. However, the amendments do not apply to any State or area plan on aging approved for any fiscal year which began before the enactment of Public Law 100-175 (November 29, 1987).

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APPENDIX

Public Law 100-175

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

This Act may be cited as the "Older Americans Act Amendments of 1987".

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TITLE I—AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

PART A—OBJECTIVES AND ADMINISTRATION

SEC. 101. OBJECTIVES.

Section 101 of the Older Americans Act of 1965 (42 U.S.C. 3001) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "United States and" and inserting "United States,", and

(B) by inserting ", and of Indian tribes" after "subdivisions",

(2) in paragraph (3) by striking "Suitable" and inserting "Obtaining and maintaining suitable",

(3) in paragraph (7) by striking "Pursuit of" and inserting "Participating in and contributing to", and

(4) in paragraph (10)—

(A) by striking "lives and" and inserting "lives,", and

(B) by inserting ", and protection against abuse, neglect, and exploitation" before the period at the end.

SEC. 102. ESTABLISHMENT OF ADMINISTRATION ON AGING.

Section 201(a) of the Older Americans Act of 1965 (42 U.S.C. 3011(a)) is amended in the third and fourth sentences by striking "the Office of".

SEC. 103. DATA COLLECTION; REPORTS.

(a) Collection Required.—Section 202(a) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)) is amended—

(1) in paragraph (17) by striking "and" at the end,

(2) in paragraph (18) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(19) collect for each fiscal year, for fiscal years beginning after September 30, 1988, directly or by contract, statistical data regarding programs and activities carried out with funds provided under this Act, including—

"(A) with respect to each type of service provided with such funds—

"(i) the aggregate amount of such funds expended to provide such service;

"(ii) the number of individuals who received such service; and

"(iii) the number of units of such service provided;

"(B) the number of senior centers which received such funds; and

"(C) the extent to which each area agency on aging designated under section 305(a) satisfied the requirements of paragraphs (2) and (5)(A) of section 306(a).".

(b) Reports.—The last sentence of section 207(a) of the Older Americans Act of 1965 (42 U.S.C. 3018(a)) is amended to read as follows: "Such annual reports shall include—

"(1) statistical data reflecting services and activities provided to individuals during the preceding fiscal year;

"(2) statistical data collected under section 202(a)(19);

"(3) an analysis of the information received under section 306(b)(2)(D) by the Commissioner; and

"(4) statistical data and an analysis of information regarding the effectiveness of the State agency and area agencies on aging in targeting services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals, low-income individuals, and frail individuals (including individuals with any physical or mental functional impairment).".

(c) Report to Congress on Ombudsman Program.—Section 207 of the Older Americans Act of 1965 (42 U.S.C. 3018) is amended by striking subsection (b) and inserting the following:

"(b)(1) Not later than January 15 of each year, the Commissioner shall compile a report—

"(A) summarizing and analyzing the data collected under section 307(a)(12)(C) for the then most recently concluded fiscal year;

"(B) identifying significant problems and issues revealed by such data (with special emphasis on problems relating to quality of care and residents' rights);

"(C) discussing current issues concerning the long-term care ombudsman programs of the States; and

"(D) making recommendations regarding legislation and administrative actions to resolve such problems.

"(2) The Commissioner shall submit the report required by paragraph (1) to—

"(A) the Select Committee on Aging of the House of Representatives;

"(B) the Special Committee on Aging of the Senate;

"(C) the Committee on Education and Labor of the House of Representatives; and

"(D) the Committee on Labor and Human Resources of the Senate.

"(3) The Commissioner shall provide the report required by paragraph (1), and make the State reports required by section 307(a)(12)(H)(i) available, to—

"(A) the Administrator of the Health Care Finance Administration;

"(B) the Office of the Inspector General of the Department of Health and Human Services;

"(C) the Office of Civil Rights of the Department of Health and Human Services;

"(D) the Administrator of the Veterans' Administration; and

"(E) the public agencies and private organizations designated under section 307(a)(12)(A).".

SEC. 104. VETERANS' PROGRAMS.

(a) CONSULTATION.—Section 203(b) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)) is amended—

(1) in paragraph (13) by striking "and" at the end,

(2) in paragraph (14) by striking the period at the end and inserting ", and", and

(3) by adding at the end the following:

"(15) parts II and III of title 38, United States Code.".

(b) TECHNICAL ASSISTANCE AND COOPERATION UNDER TITLE III.—Section 301(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3021(b)(2)) is amended by inserting ", the Veterans' Administration," after "Office of Community Services".

(c) AREA PLANS.—Section 306(a)(6)(F) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)(F)) is amended by inserting "providers of veterans' health care (if appropriate)," after "elected officials,".

(d) TECHNICAL ASSISTANCE AND COOPERATION UNDER TITLE IV.—Section 402(b) of the Older Americans Act of 1965 (42 U.S.C. 3030bb(b)) is amended by inserting "the Veterans' Administration," after "National Institutes of Health,".

SEC. 105. MENTAL HEALTH.

(a) FUNCTIONS OF COMMISSIONER.—Section 202(a)(5) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)(5)) is amended by inserting "(including mental health)" after "health".

(b) FEDERAL AGENCY CONSULTATION.—Section 203(b)(10) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)(10)) is amended by inserting ", including block grants under title XIX of such Act" before the comma.

(c) ADMINISTRATION OF TITLE III.—Section 301(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3021(b)(2)), as amended by section 104(b), is amended by inserting "the Alcohol, Drug Abuse, and Mental Health Administration," after "Veterans' Administration,".

(d) ADMINISTRATION OF TITLE IV.—Section 402(b) of the Older Americans Act of 1965 (42 U.S.C. 3030bb(b)), as amended by section 104(d), is amended by inserting "Alcohol, Drug Abuse, and Mental Health Administration," after "Veterans' Administration,".

(e) EDUCATION AND TRAINING.—(1) Section 411(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3031(a)(1)) is amended by inserting "(including mental health)" after "health".

(2) The first sentence of section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032(a)) is amended by inserting "(including mental health)" after "health".

(f) SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE.—The second sentence of section 423(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3035b(a)(3)) is amended by inserting "mental health services;" after "in-home services;".

SEC. 106. OLDER INDIVIDUALS WITH DISABILITIES.

(a) PLANNING.—Section 202(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3012(b)(1)) is amended—

(1) by striking "and" and inserting a comma, and

(2) by inserting after "Act" the following: ", with the Alcohol, Drug Abuse, and Mental Health Administration and the Administration on Developmental Disabilities".

(b) AGENCY CONSULTATION.—Section 203(b) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)), as amended by section 104(a), is amended—

(1) in paragraph (14) by striking "and" at the end,

(2) in paragraph (15) by striking the period at the end and inserting a comma, and

(3) by adding after paragraph (15) the following:

"(16) the Rehabilitation Act of 1973, and

"(17) the Developmental Disabilities and Bill of Rights Act.".

(c) EVALUATION.—The second sentence of section 206(c) of the Older Americans Act of 1965 (42 U.S.C. 3017(c)) is amended by inserting "and older individuals with disabilities" before the period at the end.

SEC. 107. OLDER NATIVE AMERICANS.

(a) IMPROVED ADMINISTRATION FOR NATIVE AMERICAN PROGRAMS.—Section 201 of the Older Americans Act of 1965 (42 U.S.C. 3011) is amended by adding at the end the following:

"(c)(1) There is established in the Administration on Aging an Office for American Indian, Alaskan Native, and Native Hawaiian Programs.

"(2) The Office shall be headed by an Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging appointed by the Commissioner.

"(3) The Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging shall—

"(A)(i) evaluate the adequacy of outreach under title III and title VI for older Native Americans and recommend to the Commissioner necessary action to improve service delivery, outreach, coordination between title III and title VI services, and particular problems faced by older Indians and Native Hawaiians; and

"(ii) include a description of the results of such evaluation and recommendations in the annual report required by section 207(a) to be submitted by the Commissioner;

"(B) serve as the effective and visible advocate in behalf of older Native Americans within the Department of Health and Human Services and with other departments and agencies of the Federal Government regarding all Federal policies affecting older Native Americans;

"(C) coordinate activities between other Federal departments and agencies to assure a continuum of improved services through memoranda of agreements or through other appropriate means of coordination;

"(D) administer and evaluate the grants provided under this Act to Indian tribes, public agencies and nonprofit private organizations serving Native Hawaiians;

"(E) recommend to the Commissioner policies and priorities with respect to the development and operation of programs and activities conducted under the Act relating to older Native Americans;

"(F) collect and disseminate information related to problems experienced by older Native Americans;

"(G) develop research plans, and conduct and arrange for research, in the field of American Native aging with a special emphasis on the gathering of statistics on the status of older Native Americans; and

"(H) develop and provide technical assistance and training programs to grantees under title VI.".

(b) FEDERAL COUNCIL ON AGING.—The third sentence of section 204(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3015(a)(1)) is amended by inserting "Indian tribes" after "minorities".

(c) CONTRACTING AUTHORITY.—Section 212 of the Older Americans Act of 1965 (42 U.S.C. 3020c) is amended by inserting after "State agency" the following: "(or in the case of a grantee under title VI, subject to the recommendation of the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging and the approval of the Commissioner)".

SEC. 108. FEDERAL COUNCIL ON AGING.

(a) MEMBERSHIP.—The fourth sentence of section 204(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3015(a)(1)) is amended by striking "two" and inserting "three".

(b) REAUTHORIZATION.—Section 204(g) of the Older Americans Act of 1965 (42 U.S.C. 3015(g)) is amended to read as follows:

"(g) There are authorized to be appropriated to carry out the provisions of this section $210,000 for the fiscal year 1988, $221,000 for the fiscal year 1989, $232,000 for the fiscal year 1990, and $243,000 for the fiscal year 1991.".

SEC. 109. REGULATIONS.

Section 205(c) of the Older Americans Act of 1965 (42 U.S.C. 3016(c)) is amended by striking "1984" and inserting "1987".

SEC. 110. PUBLICATION OF GOALS.

Section 205 of the Older Americans Act of 1965 (42 U.S.C. 3016) is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) by inserting after subsection (c) the following:

"(d) Not later than September 1 of each fiscal year, the Commissioner shall make available to the public, for the purpose of facilitating informed public comment, a statement of proposed specific goals to be achieved by implementing this Act in the first fiscal year beginning after the date on which such statement is made available.".

SEC. 111. ASSESSMENT OF UNSATISFIED DEMAND FOR SUPPORTIVE SERVICES PROVIDED AT SENIOR CENTERS AND OTHER SITES.

(a) REPORT.—Not later than September 30, 1989, the Commissioner on Aging shall submit to the Congress a report—

(1) assessing the national unmet need for supportive services, nutrition services, and multipurpose senior centers by summarizing in detail for each State the results of the most recent evaluation conducted by the State agency under the then current plan (including any revision thereof) submitted under section 307(a)(3)(A) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(3)(A)), and

(2) containing the recommendations of the Secretary with respect to the need for administrative action and legislation relating to satisfying the demand for supportive services provided at senior centers established under such title and at other sites.

(b) ISSUANCE OF REGULATIONS.—For purposes of obtaining adequate information to be included in the report required by subsection (a), the Commissioner on Aging shall issue, under the authority of section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), such regulations as may be necessary to ensure that the evaluations required to be summarized in such report include data that are objectively collected and statistically valid.

PART B—GRANTS FOR SUPPORTIVE SERVICES, NUTRITION, AND OTHER ACTIVITIES

SEC. 121. PURPOSE.

Section 301(a) of the Older Americans Act of 1965 (42 U.S.C. 3021(a)) is amended by inserting ", with Indian tribes, tribal organizations, and Native Hawaiian organizations," after "agencies" the second place it appears.

SEC. 122. REAUTHORIZATION FOR STATE AND COMMUNITY PROGRAMS ON AGING.

(a) SUPPORTIVE SERVICES AND SENIOR CENTERS.—Section 303(a) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)) is amended to read as follows:

"(a) There are authorized to be appropriated $379,575,000 for the fiscal year 1988, $398,554,000 for the fiscal year 1989, $418,481,000 for the fiscal year 1990, and $439,406,000 for the fiscal year 1991, for the purpose of making grants under part B of this title (relating to supportive services and senior centers).".

(b) NUTRITION SERVICES.—Section 303(b) of the Older Americans Act of 1965 (42 U.S.C. 3023(b)) is amended to read as follows:

"(b)(1) There are authorized to be appropriated $414,750,000 for the fiscal year 1988, $435,488,000 for the fiscal year 1989,

$457,262,000 for the fiscal year 1990, and $480,125,000 for the fiscal year 1991, for the purpose of making grants under subpart 1 of part C of this title (relating to congregate nutrition services).

"(2) There are authorized to be appropriated $79,380,000 for the fiscal year 1988, $83,349,000 for the fiscal year 1989, $87,516,000 for the fiscal year 1990, and $91,892,000 for the fiscal year 1991, for the purpose of making grants under subpart 2 of part C of this title (relating to home delivered nutrition services).".

(c) SURPLUS COMMODITIES PROGRAM.—(1) Section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)) is amended—

(A) by striking "fiscal year 1986 and during each fiscal year thereafter" and inserting "fiscal years 1986 through 1991", and

(B) by striking the second and third sentences.

(2) Subparagraph (A) of section 311(c)(1) of the Older Americans Act of 1965 (42 U.S.C. 3030a(c)(1)(A)) is amended to read as follows:

"(A) There are authorized to be appropriated $151,000,000 for the fiscal year 1988, $166,000,000 for the fiscal year 1989, $183,000,000 for the fiscal year 1990, and $201,000,000 for the fiscal year 1991, to carry out the provisions of this section (other than subsection (a)(1)).".

SEC. 123. ADMINISTRATIVE EXPENSES OF AREA AGENCIES ON AGING.

Section 304(d)(1)(A) of the Older Americans Act of 1965 (42 U.S.C. 3024(d)(1)(A)) is amended by striking "8.5" and inserting "10".

SEC. 124. AREA AGENCIES ON AGING AS SEPARATE UNITS.

Section 305(c) of the Older Americans Act of 1965 (42 U.S.C. 3025(c)) is amended—

(1) in paragraph (2) by inserting "to function only" after "designated",

(2) in paragraph (3) by inserting "only" after "act", and

(3) in paragraph (4)—

(A) by inserting ", or any separate organizational unit within such agency," after "area" the first place it appears, and

(B) by striking "engage" and inserting "and will engage only".

SEC. 125. AREA PLANS.

Section 306(a)(6)(A) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)(A)) is amended by inserting ", and public hearings on," after "evaluations of".

SEC. 126. DAYCARE AND RESPITE SERVICES PROVIDED BY VOLUNTEERS.

Section 306(a)(6)(E) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)(E)) is amended—

(1) by inserting "or adults, and respite for families," after "for children", and

(2) by inserting ", adults, and families" after "to children".

SEC. 127. COORDINATION OF CERTAIN PROGRAMS RELATING TO OLDER VICTIMS OF ALZHEIMER'S DISEASE.

Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)) is amended—

(1) in subparagraph (J) by striking "and" at the end,

(2) in subparagraph (K) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(L) coordinate the categories of services specified in paragraph (2) for which the area agency on aging is required to expend funds under part B, with activities of community-based organizations established for the benefit of victims of Alzheimer's disease and the families of such victims.".

SEC. 128. PUBLIC HEARINGS.

Section 307(a)(8) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(8)) is amended by inserting ", and public hearings on," after "evaluations of".

SEC. 129. OMBUDSMAN OFFICE AND PROGRAM.

(a) TECHNICAL ASSISTANCE.—Section 301 of the Older Americans Act of 1965 (42 U.S.C. 3021) is amended by adding at the end the following:

"(c) The Commissioner shall provide technical assistance and training (by contract, grant, or otherwise) to State long-term care ombudsman programs established under section 307(a)(12), and to individuals designated under such section to be representatives of a long-term care ombudsman, in order to enable such ombudsmen and such representatives to carry out the ombudsman program effectively.".

(b) STUDY OF OMBUDSMAN PROGRAM.—(1) The Commissioner on Aging shall conduct a study concerning involvement in the ombudsman program established under section 307(a)(12) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(12)) and its impact upon issues and problems affecting—

(A) residents of board and care facilities and other similar adult care homes who are older individuals (as defined in section 302(10) of such Act), including recommendations for expanding and improving ombudsman services in such facilities, and

(B) the effectiveness of recruiting, supervising, and retaining volunteer ombudsmen.

(2) The Commissioner shall prepare and submit a report to the Congress on the findings and recommendations of the study described in paragraph (1) not later than December 31, 1989.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 303(a) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)), as amended by section 122(a), is amended—

(A) by inserting "(1)" after "(a)", and

(B) by adding at the end the following:

"(2) Subject to subsection (h), there are authorized to be appropriated $20,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991 to carry out section 307(a)(12).".

(2) Section 308(b)(5) of the Older Americans Act of 1965 (42 U.S.C. 3028(b)(5)) is amended—

(A) in subparagraph (A) by striking "subsection (a)" and inserting "subsection (a)(1)", and

(B) in subparagraph (B) by inserting "subsections (a)(1) and (b) of" after "under" the first place it appears.

(d) STATE PLANS.—Section 307(a)(12) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(12)) is amended to read as follows:

"(12) The plan shall provide the following assurances, with respect to a long-term care ombudsman program:

"(A) The State agency will establish and operate, either directly or by contract or other arrangement with any public agency or other appropriate private nonprofit organization, other than an agency or organization which is responsible for licensing or certifying long-term care services in the State or which is an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals), an Office of the State Long-Term Care Ombudsman (in this paragraph referred to as the 'Office') and shall carry out through the Office a long-term care ombudsman program which provides an individual who will, on a full-time basis—

"(i) investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies, or of social service agencies, which may adversely affect the health, safety, welfare, or rights of such residents;

"(ii) provide for training staff and volunteers and promote the development of citizen organizations to participate in the ombudsman program; and

"(iii) carry out such other activities as the Commissioner deems appropriate.

"(B) The State agency will establish procedures for appropriate access by the ombudsman to long-term care facilities and patients' records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of such complainant or resident, or upon court order.

"(C) The State agency will establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the agency of the State responsible for licensing or certifying long-term care facilities in the State and to the Commissioner on a regular basis.

"(D) The State agency will establish procedures to assure that any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless—

"(i) such complainant or resident, or the individual's legal representative, consents in writing to such disclosure; or

"(ii) such disclosure is required by court order.

"(E) In planning and operating the ombudsman program, the State agency will consider the views of area agencies on aging, older individuals, and provider agencies.

"(F) The State agency will—

"(i) ensure that no individual involved in the designation of the long-term care ombudsman (whether by appointment or otherwise) or the designation of the head of any subdivision of the Office is subject to a conflict of interest;

"(ii) ensure that no officer, employee, or other representative of the Office is subject to a conflict of interest; and

"(iii) ensure that mechanisms are in place to identify and remedy any such or other similar conflicts.

"(G) The State agency will—

"(i) ensure that adequate legal counsel is available to the Office for advice and consultation and that legal representation is provided to any representative of the Office against whom suit or other legal action is brought in connection with the performance of such representative's official duties; and

"(ii) ensure that the Office has the ability to pursue administrative, legal, and other appropriate remedies on behalf of residents of long-term care facilities.

"(H) The State agency will require the Office to—

"(i) prepare an annual report containing data and findings regarding the types of problems experienced and complaints received by or on behalf of individuals residing in long-term care facilities, and to provide policy, regulatory, and legislative recommendations to solve such problems, resolve such complaints, and improve the quality of care and life in long-term care facilities;

"(ii) analyze and monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities and services in that State, and recommend any changes in such laws, regulations, and policies deemed by the Office to be appropriate;

"(iii) provide information to public agencies, legislators, and others, as deemed necessary by the Office, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities;

"(iv) provide for the training of the Office staff, including volunteers and other representatives of the Office, in—

"(I) Federal, State, and local laws, regulations, and policies with respect to long-term care facilities in the State;

"(II) investigative techniques; and

"(III) such other matters as the State deems appropriate;

"(v) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illness established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99–319); and

"(vi) include any area or local ombudsman entity designated by the State Long-Term Care Ombudsman as a subdivision of the Office. Any representative of an entity designated in accordance with the preceding sentence (whether an employee or an unpaid volunteer) shall be treated as a representative of the Office for purposes of this paragraph.

"(I) The State will ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

"(J) The State will—

"(i) ensure that willful interference with representatives of the Office in the performance of their official duties (as defined by the Commissioner) shall be unlawful;

"(ii) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident or employee for having filed a complaint with, or providing information to, the Office; and

"(iii) provide for appropriate sanctions with respect to such interference, retaliation, and reprisals; and

"(iv) ensure that representatives of the Office shall have—

"(I) access to long-term care facilities and their residents; and

"(II) with the permission of a resident or resident's legal guardian, have access to review the resident's medical and social records or, if a resident is unable to consent to such review and has no legal guardian, appropriate access to the resident's medical and social records.

"(K) The State agency will prohibit any officer, employee, or other representative of the Office to investigate any complaint filed with the Office unless the individual has received such training as may be required under subparagraph (G)(iv) and has been approved by the long-term care ombudsman as qualified to investigate such complaints.".

(e) MINIMUM EXPENDITURE FOR OMBUDSMAN SERVICES.—Section 307(a)(21) of the Older Americans Act of 1965 (42 U.S.C. 3027 (a)(21)) is amended to read as follows:

"(21) The State plan shall provide that the State agency, from funds allotted under section 304(a) for part B and for paragraph (12) (relating to the State long-term care ombudsman) shall expend to carry out paragraph (12), for each fiscal year in which the allotment for part B for the State is not less than the allotment for fiscal year 1987 for part B for such State, an amount which is not less than the amount expended from

funds received under this Act by such State in fiscal year 1987 to carry out paragraph (12) as in effect before the effective date of the Older Americans Act Amendments of 1987. This paragraph shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

SEC. 130. FLEXIBILITY OF SERVICES; LEGAL ASSISTANCE.

(a) AREA PLANS.—(1) Section 306(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(2)) is amended by inserting ", as required under section 307(a)(22)," after "adequate proportion".

(2) Section 306(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3026(b)(2)) is amended by adding at the end the following:

"(C) Whenever the State agency proposes to grant a waiver to an area agency under this subsection, the State agency shall publish the intention to grant such a waiver together with the justification for the waiver at least 30 days prior to the effective date of the decision to grant the waiver. An individual or a service provider from the area with respect to which the proposed waiver applies is entitled to request a hearing before the State agency on the request to grant such waiver. If, within the 30-day period described in the first sentence of this subparagraph, an individual or service provider requests a hearing under this subparagraph, the State agency shall afford such individual or provider an opportunity for a hearing.

"(D) If the State agency waives the requirement described in clause (2) of subsection (a), the State agency shall provide to the Commissioner—

"(i) a report regarding such waiver that details the demonstration made by the area agency on aging to obtain such waiver;

"(ii) a copy of the record of the public hearing conducted pursuant to subparagraph (A); and

"(iii) a copy of the record of any public hearing conducted pursuant to subparagraph (C).".

(b) MINIMUM EXPENDITURE OF FUNDS.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended by adding at the end the following:

"(22) The plan shall specify a minimum percentage of the funds received by each area agency for part B that will be expended, in the absence of the waiver granted under section 306(b)(1), by such area agency to provide each of the categories of services specified in section 306(a)(2).".

SEC. 131. DOCUMENTATION REGARDING MINORITY PARTICIPATION.

(a) AREA PLANS.—Section 306(a)(5)(A) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(5)(A)) is amended—

(1) by inserting "(i)" after "(5)(A)", and

(2) in subparagraph (A)(i), as so redesignated—

(A) by striking "and" at the end, and

(B) by inserting after clause (i) the following:

"(ii) provide assurances that the area agency will include in each agreement made with a provider of any service under this title, a requirement that such provider will—

"(I) specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider; and

"(II) attempt to provide services to low-income minority individuals in at least the same proportion as the population of low-income minority older individuals bears to the population of older individuals of the area served by such provider; and

"(iii) with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

"(I) identify the number of low-income minority older individuals in the planning and service area; and

"(II) describe the methods used to satisfy the service needs of such minority older individuals; and".

(b) State Plan.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by section 130(c), is amended by adding at the end the following:

"(23) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

"(A) identify the number of low-income minority older individuals in the State; and

"(B) describe the methods used to satisfy the service needs of such minority older individuals.".

SEC. 132. TARGETING OF SERVICES.

(a) Organization.—(1) Section 305(a)(1)(E) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1)(E)) is amended—

(A) by striking "the distribution of older individuals who have low incomes residing in such areas", and

(B) by inserting after "legal services," the following: "the distribution of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such areas, the distribution of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such areas,".

(2) Section 305(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(2)) is amended—

(A) in subparagraph (D) by striking "and" at the end,

(B) in subparagraph (E) by striking the period at the end and inserting "; and", and

(C) by inserting after subparagraph (E) the following:

"(F) assure the use of outreach efforts that will identify individuals eligible for assistance under this Act, with special emphasis on older individuals with the greatest economic or social needs (with particular attention to low-income minority individuals) and inform such individuals of the availability of such assistance.".

(b) Area Plans.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)) is amended—

(1) in paragraph (1) by inserting after "residing in such area" the following: ", the number of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such area, the number of older individuals who have greatest social need (with particu-

lar attention to low-income minority individuals) residing in such area,",

(2) in paragraph (5)(B) by inserting after "rural elderly," the following: "older individuals who have greatest economic need (with particular attention to low-income minority individuals), older individuals who have greatest social need (with particular attention to low-income minority individuals),", and

(3) in paragraph (6)(A) by inserting before the semicolon at the end the following: "and an annual evaluation of the effectiveness of outreach conducted under paragraph (5)(B)".

(c) State Plan.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c) and 131(b), is amended—

(1) in paragraph (8) by inserting before the semicolon the following: ", including an evaluation of the effectiveness of the State agency in reaching older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals", and

(2) by adding at the end the following:

"(24) The plan shall provide assurances that the State agency will require outreach efforts that will—

"(A) identify older individuals who are eligible for assistance under this title, with special emphasis on older individuals with greatest economic need (with particular attention to low-income minority individuals), older individuals with greatest social need (with particular attention to low-income minority individuals), and older individuals who reside in rural areas; and

"(B) inform such individuals of the availability of such assistance.".

SEC. 133. COORDINATION RELATING TO MENTAL HEALTH SERVICES.

Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)), as amended by section 127, is amended—

(1) in subparagraph (K) by striking "and", and

(2) in subparagraph (L) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(M) coordinate any mental health services provided with funds expended by the area agency on aging for part B with the mental health services provided by community health centers and by other public agencies and nonprofit private organizations.".

SEC. 134. SERVICES TO OLDER NATIVE AMERICANS.

(a) Organization.—(1) Section 305(a)(1)(E) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1)(E)), as amended by section 132(a)(1), is amended by inserting "the distribution of older Indians residing in such areas," after "such areas," the second place it appears.

(2) Section 306(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(1)), as amended by section 132(b)(1), is amended by inserting ", and the number of older Indians residing in such area," before "and" the last place it appears in the parenthetical.

(b) AREA PLANS.—Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)), as amended by sections 127 and 133, is amended—

(1) by striking "and" at the end of subparagraph (L),

(2) by striking the period at the end of subparagraph (M) and inserting "; and", and

(3) by adding at the end the following:

"(N) if there is a significant population of older Indians in the planning and service area of the area agency, the area agency shall conduct outreach activities to identify older Indians in such area and shall inform such older Indians of the availability of assistance under this Act.".

(c) EDUCATION AND TRAINING.—(1) Section 402 of the Act (42 U.S.C. 3030bb) is amended by adding at the end the following:

"(c) The Commissioner shall ensure that grants and contracts under this title are equitably awarded to agencies, organizations, and institutions representing minorities.".

(2) Section 410(5) of the Older Americans Act of 1965 (42 U.S.C. 3030jj(5)) is amended by inserting "(including centers of gerontology to improve, enhance, and expand minority personnel and training programs)" after "gerontology".

(3) Section 411(a) of the Older Americans Act of 1965 (42 U.S.C. 3031(a)) is amended by adding at the end the following:

"(4) To provide in-service training opportunities and courses of instruction on aging to Indian tribes through public and nonprofit Indian aging organizations.".

(4) The matter in parentheses in the first sentence of section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032(a)) is amended—

(A) by striking "and" and inserting a comma, and

(B) by inserting "and minority populations" after "services".

(5) Section 423(a) of the Older Americans Act of 1965 (42 U.S.C. 3035b(a)) is amended by adding at the end the following:

"(4) The Commissioner shall ensure that grants and contracts under this section are equitably awarded to agencies, organizations, and institutions representing minorities.".

(6) Section 425(a) of the Older Americans Act of 1965 (42 U.S.C. 3035d(a)) is amended—

(A) by striking "(1)" and "(2)" and inserting "(A)" and "(B)", respectively,

(B) by inserting "(1)" after "(a)", and

(C) by adding at the end the following:

"(2) The Commissioner shall carry out, directly or through grants or contracts, special training programs and technical assistance designed to improve services to minorities.".

(d) TASK FORCE.—(1) The Commissioner on Aging shall establish a permanent interagency task force that is representative of departments and agencies of the Federal Government with an interest in older Indians and their welfare, and is designed to make recommendations with respect to facilitating the coordination of services and the improvement of services to older Indians.

(2) The task force shall be chaired by the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging and shall submit its findings and recommendations to the Commissioner at 6-month intervals beginning after the date of the enact-

ment of this Act. Such findings and recommendations shall be included in the annual report required by section 207(a) of the Older Americans Act of 1965 to be submitted by the Commissioner.

(e) Special Report on Services for Older Indians.—(1) The Commissioner on Aging shall enter into a contract with a public agency or nonprofit private organization to conduct a thorough study of the availability and quality of services under the Older Americans Act of 1965 to older Indians. The study shall include—

(A) an analysis of how many Indians now participate in programs under titles III and VI of such Act as compared to how many older Indians are eligible to participate in such programs,

(B) a description of how grants under titles III and VI of such Act are made to Indian tribes and how services are made available to older Indians, and

(C) a determination of what services are currently provided through title VI of such Act to older Indians and how well the Administration on Aging assures that supportive services under title VI of such Act to Indians are commensurate with supportive services under title III of such Act with special consideration to information and referral services, legal services, transportation services, and the ombudsman services.

(2) Not later than December 31, 1988, the Commissioner on Aging shall prepare and submit to the Congress a report on the study required by this subsection, together with such recommendations, including recommendations for legislation, as the Commissioner considers to be appropriate.

SEC. 135. OUTREACH REGARDING TUITION-FREE POST-SECONDARY EDUCATION.

Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)), as amended by sections 127, 133, and 134(b), is amended—

(1) in subparagraph (M) by striking "and" at the end,

(2) in subparagraph (N) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(O)(i) compile available information on institutions of higher education in the planning and service area regarding—

"(I) the courses of study offered to older individuals by such institutions; and

"(II) the policies of such institutions with respect to the enrollment of older individuals with little or no payment of tuition, on a space available basis, or on another special basis;

and include in such compilation such related supplementary information as may be necessary; and

"(ii) based on the results of such compilation, make a summary of such information available to older individuals at multipurpose senior centers, congregate nutrition sites, and other appropriate places.".

SEC. 136. SERVICES TO INDIVIDUALS WITH DISABILITIES.

(a) DEFINITIONS.—(1) Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended by adding at the end the following:

> *"(8) The term 'disability' means (except when such term is used in the phrase 'severe disability', 'developmental disabilities', 'physical or mental disability', 'physical and mental disabilities', or 'physical disabilities') a disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in 1 or more of the following areas of major life activity: (A) self-care, (B) receptive and expressive language, (C) learning, (D) mobility, (E) self-direction, (F) capacity for independent living, (G) economic self-sufficiency, (H) cognitive functioning, and (I) emotional adjustment.*
>
> *"(9) The term 'severe disability' means a severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that—*
>
> > *"(A) is likely to continue indefinitely; and*
> >
> > *"(B) results in substantial functional limitation in 3 or more of the major life activities specified in subparagraphs (A) through (G) of paragraph (8).".*

(2) Section 302(11) of the Older Americans Act of 1965 (42 U.S.C. 3022(11)) is amended by inserting "(including mental health)" after "health".

(b) AREA PLANS.—Section 306(a)(5)(B) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(5)(B)), as amended by section 132(b)(2), is amended by inserting "and older individuals with severe disabilities," after "individuals)," the second place it appears.

(c) STATE PLANS.—(1) Section 307(a)(13)(I) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(13)(I)) is amended by inserting before the semicolon at the end the following: ", and to individuals with disabilities who reside at home with and accompany older individuals who are eligible under this Act".

(2) Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), and 132(c), is amended by adding at the end the following:

> *"(25) The plan shall provide, with respect to the needs of older individuals with severe disabilities, assurances that the State will coordinate planning, identification, assessment of needs, and service for older individuals with disabilities with particular attention to individuals with severe disabilities with the State agencies with primary responsibility for individuals with disabilities, including severe disabilities, and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities.".*

(d) SUPPORTIVE SERVICES.—(1) Section 321(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)(1)) is amended by inserting after "health" the following: "(including mental health)".

(2) Section 321(a)(4)(B) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)(4)(B)) is amended by striking "suffering from physical disabilities" and inserting "who have physical disabilities".

SEC. 137. CONFIDENTIALITY OF INFORMATION RELATING TO LEGAL ASSISTANCE PROVIDED.

(a) AREA AGENCY ON AGING.—Section 306 of the Older Americans Act of 1965 (42 U.S.C. 3026) is amended by adding at the end the following:

"(d) An area agency on aging may not require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.".

(b) STATE AND STATE AGENCY.—Section 307 of the Older Americans Act of 1965 (42 U.S.C. 3027) is amended by adding at the end the following:

"(g) Neither a State, nor a State agency, may require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.".

SEC. 138. COORDINATION OF COMMUNITY-BASED SERVICES

Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), and 136(c)(3), is amended by adding at the end the following:

"(26) The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to section 306(a)(6)(I), for older individuals who—

"(A) reside at home and are at risk of institutionalization because of limitations on their ability to function independently;

"(B) are patients in hospitals and are at risk of prolonged institutionalization; or

"(C) are patients in long-term care facilities, but who can return to their homes if community-based services are provided to them.".

SEC. 139. PAYMENTS.

Section 309(c) of the Older Americans Act of 1965 (42 U.S.C. 3029(c)) is amended—

(1) by inserting "average annual" after "less than its", and

(2) by striking "preceding fiscal year" and inserting "period of 3 fiscal years preceding such year".

SEC. 140. IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023) is amended by adding at the end the following:

"(d) There are authorized to be appropriated $25,000,000 for fiscal year 1988, $26,250,000 for fiscal year 1989, $27,563,000 for fiscal year 1990, and $28,941,000 for fiscal year 1991 for the purpose of making grants under part D of this title (relating to in-home services).".

(b) AREA PLANS.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)) is amended—

(1) in paragraph (6) by striking the period at the end and inserting "; and", and

(2) by adding at the end the following:

"(7) provide assurances that any amount received under part D will be expended in accordance with such part.".

(c) STATE PLANS.—(1) Section 307(a)(10) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(10)) is amended by striking "including *nutrition services," and inserting "nutrition services, or in-home services (as defined in section 342(1))".*

(2) Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 136(c)(3), and 138 is amended by adding at the end the following:

"(27) The plan shall provide assurances of consultation and coordination in planning and provision of in-home services under section 341 with State and local agencies and private nonprofit organizations which administer and provide services relating to health, social services, rehabilitation, and mental health services.".

(d) PROGRAM.—Title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.) is amended by adding at the end the following:

"PART D—IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS

"PROGRAM AUTHORIZED

"SEC. 341. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide in-home services to frail older individuals, including in-home supportive services for older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and to the families of such victims.

"(b) In carrying out the provisions of this part, each area agency shall coordinate with other community agencies and voluntary organizations providing counseling and training for family caregivers and support service personnel in management of care, functional and needs assessment services, assistance with locating, arranging for, and coordinating services, case management, and counseling prior to admission to nursing home to prevent premature institutionalization.

"DEFINITIONS

"SEC. 342. For purposes of this part—

"(1) the term 'in-home services' includes—

"(A) homemaker and home health aides;

"(B) visiting and telephone reassurance;

"(C) chore maintenance;

"(D) in-home respite care for families, and adult day care as a respite service for families; and

"(E) minor modification of homes that is necessary to facilitate the ability of older individuals to remain at home and that is not available under other programs, except that not more than $150 per client may be expended under this part for such modification; and

"(2) the term 'frail' means having a physical or mental disability, including having Alzheimer's disease or a related disorder with neurological or organic brain dysfunction, that restricts the ability of an individual to perform normal daily tasks or which threatens the capacity of an individual to live independently.

"STATE CRITERIA

"SEC. 343. The State agency shall develop eligibility criteria for providing in-home services to frail older individuals which shall take into account—

"(1) age;

"(2) greatest economic need;

"(3) noneconomic factors contributing to the frail condition; and

"(4) noneconomic and nonhealth factors contributing to the need for such services.

"MAINTENANCE OF EFFORT

"SEC. 344. Funds made available under this part shall be in addition to, and may not be used to supplant, any funds that are or would otherwise be expended under any Federal, State, or local law by a State or unit of general purpose local government (including area agencies on aging which have in their planning and services areas existing services which primarily serve older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and the families of such victims).".

SEC. 141. ASSISTANCE FOR SPECIAL NEEDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023), as amended by section 140(a), is amended by adding at the end the following:

"(e) Subject to subsection (h), there are authorized to be appropriated $25,000,000 for fiscal year 1988, $25,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 and 1991 to carry out part E (relating to special needs).".

(b) AREA PLANS.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)), as amended by section 140(b), is amended—

(1) in paragraph (6) by striking "and" at the end,

(2) in paragraph (7) by striking the period at the end and inserting "; and", and

(3) by inserting after paragraph (7) the following:

"(8) provide assurances that any amount received under part E will be expended in accordance with such part;".

(c) STATE PLANS.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 136(c)(3), 138, and 140(c)(2), is amended by adding at the end the following:

"(28) The plan shall provide assurances that if the State receives funds appropriated under section 303(e), the State agency and area agencies on aging will expend such funds to carry out part E.".

(d) GRANTS FOR SPECIAL NEEDS.—Title III of the Older Americans Act of 1965 (42 U.S.C. 3021–3030g), as amended by section 140(d), is amended by adding at the end the following:

“PART E—ADDITIONAL ASSISTANCE FOR SPECIAL NEEDS OF OLDER INDIVIDUALS

“PROGRAM AUTHORIZED

“SEC. 351. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide services, consistent with the purpose of this title, designed to satisfy special needs of older individuals. Such services include—

“(1) transportation associated with services provided under this title;

“(2) outreach regarding such services;

“(3) targeting such services to older individuals with greatest economic need or greatest social need;

“(4) services under the ombudsman program established under section 307(a)(12); and

“(5) any other service under this title—

“(A) for which the State demonstrates to satisfaction of the Commissioner that there is unmet need; and

“(B) which is appropriate to improve the quality of life of older individuals, particularly those with greatest economic need and those with greatest social need.”.

SEC. 142. STATE PLAN INFORMATION REGARDING SERVICES TO OLDER INDIVIDUALS RESIDING IN RURAL AREAS.

Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 136(c)(3), 138, 140(c)(2), and 141(c), is amended by adding at the end the following:

“(29) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared, describe the methods used to satisfy the service needs of older individuals who reside in rural areas.”.

SEC. 143. HEALTH EDUCATION AND PROMOTION FOR OLDER INDIVIDUALS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023), as amended by sections 140(a) and 141(a), is amended by adding at the end the following:

“(f) Subject to subsection (h), there are authorized to be appropriated $5,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991 for the purpose of making grants under part F of this title (relating to periodic preventive health, health education, and promotion services).”.

(b) AREA PLANS.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)), as amended by sections 140(b) and 141(b), is amended—

(1) in paragraph (7) by striking “and” at the end,

(2) in paragraph (8) by striking the period at the end and inserting “; and”, and

(3) by adding at the end the following:

“(9) provide assurances that any amount received under part F will be expended in accordance with such part.”.

(c) PROGRAM.—Title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.), as amended by sections 140(d) and 141(d), is amended by adding at the end the following:

“Part F—Preventive Health Services

“PROGRAM AUTHORIZED

“Sec. 361. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for periodic preventive health services to be provided at senior centers or alternative sites as appropriate.

“(b) Preventive health services under this part may not include services eligible for reimbursement under Medicare.

“(c) The Commissioner shall, to the extent possible, assure that services provided by other community organizations and agencies are used to carry out the provisions of this part.

“DISTRIBUTION TO AREA AGENCIES

“Sec. 362. The State agency shall give priority, in carrying out this part, to areas of the State—

“(1) which are medically underserved; and

“(2) in which there are a large number of older individuals who have the greatest economic need for such services.

“DEFINITIONS

“Sec. 363. For the purpose of this part and section 307 the term ‘preventive health services’ means—

“(1) routine health screening, which may include hypertension, glaucoma, cholesterol, cancer, vision and hearing screening;

“(2) group exercise programs;

“(3) home injury control services, including screening of high-risk home environments and educational programs on injury protection in the home environment;

“(4) nutritional counseling and educational services;

“(5) screening for the prevention of depression, coordination of community mental health services, educational activities, and referral to psychiatric and psychological services;

“(6) educational programs on the benefits and limitations of Medicare and various supplemental insurance coverage, including individual policy screening and health insurance-needs counseling; and

“(7) counseling regarding followup health services based on any of the services provided for above.”.

SEC. 144. PREVENTION OF ABUSE OF OLDER INDIVIDUALS.

(a) Definitions.—Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022), as amended by section 136(a), is amended by adding at the end the following:

“(15) The term ‘abuse’ means the willful—

“(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or

“(B) deprivation by a caretaker of goods or services which are necessary to avoid physical harm, mental anguish, or mental illness.

“(16) The term ‘elder abuse’ means abuse of an older individual.

"(17) The term 'caretaker' means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, receipt of payment for care, as a result of family relationship, or by order of a court of competent jurisdiction.

"(18) The term 'exploitation' means the illegal or improper act or process of a caretaker using the resources of an older individual for monetary or personal benefit, profit, or gain.

"(19) The term 'neglect' means the failure to provide for oneself the goods or services which are necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

"(20) The term 'physical harm' means bodily pain, injury, impairment, or disease.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023), as amended by sections 140(a), 141(a), and 143(a), is amended by adding at the end the following:

"(g) Subject to subsection (h), there are authorized to be appropriated $5,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991, to carry out part G (relating to abuse, neglect, and exploitation of older individuals).".

(c) AREA PLANS.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)), as amended by sections 140(b), 141(b), and 143(b), is amended—

(1) in paragraph (8) by striking "and" at the end,

(2) in paragraph (9) by striking the period at the end and inserting "; and", and

(3) by adding at end the following:

"(10) provide assurances that any amount received under part G will be expended in accordance with such part.".

(d) STATE PLAN.—(1) Section 307(a)(16) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(16)) is amended by striking "provide" the second place it appears and inserting ", if funds are not appropriated under section 303(g) for a fiscal year, provide that for such fiscal year".

(2) Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 136(c)(3), 138, 140(c)(2), 141(c), and 142, is amended by adding at the end the following:

"(30) The plan shall provide assurances that if the State receives funds appropriated under section 303(g), the State agency and area agencies on aging will expend such funds to carry out part G.".

(e) ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS.—Title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.), as amended by sections 140(d), 141(d), and 143(c), is amended by adding at the end the following:

"PART G—PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS

"PROGRAM AUTHORIZED

"SEC. 371. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to carry out a program with respect to the prevention of abuse, neglect, and exploitation of older individuals. The program shall—

"(1) be consistent with relevant State law and coordinated with State adult protective service activities and other State and local elder abuse prevention and protection;

"(2) provide for—

"(A) public education and outreach services to identify and prevent abuse, neglect, and exploitation of older individuals;

"(B) receipt of reports of such abuse, neglect, and exploitation;

"(C) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and with the consent of the older individuals to be referred; and

"(D) the referral of complaints and other reports of abuse, neglect, or exploitation of older individuals to law enforcement agencies, public protective service agencies, licensing and certification agencies, ombudsman programs, or protection and advocacy system if appropriate;

"(3) not permit involuntary or coerced participation in such program by alleged victims, abusers, or their households; and

"(4) require that all information gathered in the course of receiving such a complaint or report, and making such a referral, shall remain confidential unless—

"(A) all parties to such complaint or report consent in writing to the release of such information; or

"(B) the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system.".

SEC. 145. LIMITATION ON CERTAIN AUTHORITY TO MAKE APPROPRIATIONS.

Section 303 of the Older Americans Act of 1965 (42 U.S.C. 2023), as amended by sections 140(a), 141(a), 143(a), and 144(b), is amended by adding at the end the following:

"(h) No funds may be appropriated under subsection (a)(2), (a)(3), (e), (f), or (g) for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out this title (other than sections 306(a)(6)(P), 307(a)(12), and 311, and parts E, F, and G), title IV (other than sections 427 and 428), title V, and title VI exceeds 105 percent of the aggregate amount appropriated for the preceding fiscal year to carry out such titles.".

SEC. 146. ASSISTIVE TECHNOLOGY INFORMATION.

(a) DEFINITIONS.—Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended by adding at the end the following:

"(8) The term 'assistive technology' means technology, engineering methodologies, or scientific principles appropriate to meet the needs of, and address the barriers confronted by, older individuals with functional limitations.

"(9) The term 'information and referral' includes information relating to assistive technology.".

(b) Client Assessment Through Case Management.—Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended by adding at the end the following: "For purposes of paragraph (5), the term 'client assessment through case management' includes providing information relating to assistive technology.".

(c) Multidisciplinary Centers of Gerontology.—Section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032(a)) is amended—

(1) in paragraph (5) by striking "and" at the end,

(2) in paragraph (6) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(7) if appropriate, provide information relating to assistive technology.".

PART C—DEMONSTRATION GRANTS

SEC. 151. DEMONSTRATION PROJECTS; PURPOSE.

Section 401(1) of the Older Americans Act of 1965 (42 U.S.C. 3030aa(1)) is amended by inserting before the semicolon the following: ", with special emphasis on minority individuals, low-income individuals, frail individuals, and individuals with disabilities".

SEC. 152. DEMONSTRATION PROJECTS.

Section 422 of the Older Americans Act of 1965 (42 U.S.C. 3035a) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)", and

(B) by adding at the end the following:

"(2) The Commissioner may, after consultation with the State agency in the State involved, make grants to or enter into contracts with public or private institutions of higher education having graduate programs with capability in public health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, or gerontology, for the purpose of designing and developing prototype health education and promotion programs for the use of State and area agencies on aging in implementing preventive health service programs.", and

(2) in subsection (b) by striking "this section" and inserting "subsection (a)(1)".

SEC. 153. VOLUNTEER OPPORTUNITIES.

Section 422(b) of the Older Americans Act of 1965 (42 U.S.C. 3035a) is amended—

(1) in paragraph (7) by striking "and" at the end,

(2) in paragraph (8) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(9) provide expanded, innovative volunteer opportunities to older individuals which are designed to fulfill unmet community needs, while at the same time avoiding duplication of existing volunteer programs, which may include—

"(A) projects furnishing intergenerational services by older individuals addressing the needs of children, such as—

"(i) tutorial services in elementary and special schools;

"(ii) after school programs for latch key children;

"(iii) voluntary services for day care center programs; and

"(B) volunteer service credit projects operated in conjunction with ACTION, permitting elderly volunteers to earn credits for services furnished, which may later be redeemed for similar volunteer services.".

SEC. 154. SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE.

Section 423(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3035b(a)(1)), as amended by section 134(c)(5), is amended by striking "may" and inserting "shall".

SEC. 155. OUTREACH TO SSI, MEDICAID, AND FOOD STAMP RECIPIENTS.

(a) OUTREACH AND APPLICATION ASSISTANCE FUNCTIONS OF ADMINISTRATION ON AGING.—Section 202(a) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)), as amended by section 103(a), is amended—

(1) in paragraph (18) by striking "and" at the end,

(2) in paragraph (19) by striking the period and inserting "; and", and

(3) by adding at the end the following:

"(20) obtain from—

"(A) the Department of Agriculture information explaining the requirements for eligibility to receive benefits under the Food Stamp Act of 1977; and

"(B) the Social Security Administration information explaining the requirements for eligibility to receive supplemental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act);

and distribute such information, in written form, to State agencies, for redistribution to area agencies on aging, to carry out outreach activities and application assistance under section 307(a)(31).".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 303(a) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)), as amended by sections 122(a) and 129(c), is amended—

(1) in paragraph (1) by inserting "for purposes other than outreach activities and application assistance under section 307(a)(31)" before the period at the end, and

(2) by adding at the end the following:

"(3) Subject to subsection (h), there are authorized to be appropriated $10,000,000 for fiscal year 1989, $10,000,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991 to

carry out section 306(a)(6)(P). Amounts appropriated under this subsection shall remain available until expended.".

(c) ALLOTMENT, STATE MIMINUM.—(1)(A) The first sentence of section 304(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3024(a)(1)) is amended by striking "paragraph (2)" and inserting "paragraphs (2) and (3)".

(B) The last sentence of section 304(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3024(a)(1)) is amended by striking "purpose of" and inserting "purposes of paragraph (3) and".

(2) Section 304(a) of the Older Americans Act of 1965 (42 U.S.C. 3024(a)) is amended—

(A) by redesignating paragraph (3) as paragraph (4), and

(B) by inserting after paragraph (2) the following:

"(3) No State shall be allotted, from the amount appropriated pursuant to section 303(a)(3), less than $50,000 for any fiscal year.".

(d) ADMINISTRATIVE EXPENSES.—Subparagraphs (B) and (C) of section 304(d)(1) of the Older Americans Act of 1965 (42 U.S.C. 3024(d)(1)) are each amended by inserting "(excluding any amount attributable to funds appropriated under section 303(a)(3))" after "amount".

(e) OUTREACH AND APPLICATION ASSISTANCE.—

(1) AREA PLANS.—Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)), as amended by sections 127, 133, 134(b), and 135, is amended—

(A) in subparagraph (N) by striking "and" at the end,

(B) in subparagraph (O) by striking the period at the end and inserting "; and", and

(C) by adding at the end the following:

"(P) with funds and information received under section 307(a)(31) from the State agency—

"(i) carry out activities to identify older individuals with greatest economic need who may be eligible to receive, but are not receiving, supplemental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act), medical assistance under title XIX of the Social Security Act, and benefits under the Food Stamp Act of 1977;

"(ii) conduct outreach activities to inform older individuals of the requirements for eligibility to receive such assistance and such benefits; and

"(iii) assist older individuals to apply for such assistance and such benefits;".

(2) STATE PLANS.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 136(c)(3), 138, 140(c)(2), 141(c), 142, and 144(d), is amended—

(A) in paragraph (20)(A) by striking "section 306(a)(2)(A)" and inserting "sections 306(a)(2)(A) and 306(a)(6)(P)", and

(B) by adding at the end the following:

"(31) The plan shall provide that the State agency—

"(A) from funds allotted for fiscal year 1989 under section 304(a) for part B that are attributable to the amount appropriated under section 303(a)(3), will make funds avail-

able to eligible area agencies on aging to carry out section 306(a)(6)(P) and, in distributing such funds among eligible area agencies, will give priority to area agencies on aging based on—

"(i) the number of older individuals with greatest economic need (as defined in section 302(20)) residing in their respective planning and service areas; and

"(ii) the inadequacy in such areas of outreach activities and application assistance of the type specified in section 306(a)(6)(P);

"(B) will require, as a condition of eligibility to receive funds under this paragraph, an area agency on aging to submit an application that—

"(i) describes the activities for which such funds are sought;

"(ii) provides for an evaluation of such activities by the area agency; and

"(iii) includes assurances that the area agency will prepare and submit to the State agency a report of the activities conducted with funds provided under this paragraph and the evaluation of such activities;

"(C) will distribute to area agencies on aging—

"(i) the eligibility information received under section 202(a)(20) from the Administration; and

"(ii) information, in written form, explaining the requirements for eligibility to receive medical assistance under title XIX of the Social Security Act; and

"(D) will submit to the Commissioner a report on the evaluations required to be submitted under section 307(a)(31)(B).".

(f) REPORT.—Section 207 of the Older Americans Act of 1965 (42 U.S.C. 3018) is amended by adding at the end the following:

"(c) The Commissioner shall, as part of the annual report submitted under subsection (a), prepare and submit a report on the evaluations required to be submitted under section 307(a)(31)(D), together with such recommendations as the Commissioner deems appropriate. In carrying out this subsection, the Commissioner shall consider—

"(1) the number of older individuals reached through outreach activities supported under section 306(a)(6)(P);

"(2) the dollar amount of the assistance and benefits received by older individuals as a result of such activities;

"(3) the cost of such activities in terms of the number of individuals reached and the dollar amount described in paragraph (2); and

"(4) the effect of such activities on supportive services and nutrition services furnished under title III of this Act.".

(g) IMPLEMENTATION INFORMATION.—Not later than September 1, 1988, the Commissioner on Aging shall—

(1) analyze and compile information on successful and unsuccessful activities carried out to conduct outreach of the type described in section 306(a)(6)(P) of the Older Americans Act of 1965, as added by subsection (e), and

(2) distribute such information to the State agencies on aging for dissemination to interested area agencies on aging to assist such area agencies in designing outreach activities to be carried out under section 306(a)(6)(P) of such Act.

(h) EVALUATION GUIDELINES.—The Commissioner on Aging shall issue guidelines to be followed by State agencies on aging and area agencies on aging in conducting evaluations of outreach activities carried out under section 306(a)(6)(P), of the Older Americans Act of 1965, as added by subsection (e). Such guidelines shall be designed to ensure that such evaluations are based on uniform criteria that provide a basis for the valid comparison of such outreach activities conducted by the various area agencies.

SEC. 156. DEMONSTRATION GRANTS FOR INDIVIDUALS WITH DISABILITIES.

(a) TRAINING.—Section 411(c) of the Older Americans Act of 1965 (42 U.S.C. 3031(c)) is amended—

(1) by striking "custodial and skilled care for older individuals who suffer from" and inserting "services to individuals with disabilities and to individuals with", and

(2) by striking "other neurological and organic brain disorders of the Alzheimer's type" and inserting "and related disorders with neurological and organic brain dysfunction".

(b) MULTIDISCIPLINARY CENTERS.—Section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032(a)) is amended by inserting "disabilities (including severe disabilities)," before "income maintenance".

(c) DEMONSTRATION GRANTS.—Section 422(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3035a(b)(2)) is amended—

(1) in subparagraph (C) by striking "and" at the end,

(2) in subparagraph (D) by inserting "and" at the end, and

(3) by adding at the end the following:

"(E) the identification and provision of services to older individuals with severe disabilities;".

(d) LONG-TERM CARE SPECIAL PROJECTS.—Section 423(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3035b(a)(3)) is amended by inserting after "geriatric health maintenance organizations;" the following: "services to older individuals with severe disabilities residing in nursing homes;".

(e) ADDITIONAL SPECIAL PROJECTS.—(1) Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034 et seq.) is amended by adding at the end the following:

"OMBUDSMAN AND ADVOCACY DEMONSTRATION PROJECTS

"SEC. 427. (a) The Commissioner is authorized to make grants to not less than three nor more than ten States to demonstrate and evaluate cooperative projects between the State long-term care ombudsman program and the State protection and advocacy systems for developmental disabilities and mental illness, established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319).

"(b) The Commissioner on Aging shall prepare and submit to the Congress a report of the study and evaluation required by subsection

(a). Such report shall contain such recommendations as the Commissioner on Aging deems appropriate.".

(2) Section 431(a) of the Older Americans Act of 1965 (42 U.S.C. 3037(a)) is amended—

(A) by inserting "(other than section 427)" after "title",

(B) by inserting "(1)" after "(a)", and

(C) by adding at the end the following:

"(2) Subject to subsection (b), there is authorized to be appropriated $1,000,000 for fiscal year 1989 to carry out the provisions of section 427. The funds appropriated pursuant to this paragraph shall remain available for expenditure for fiscal year 1990.".

SEC. 157. CONSUMER PROTECTION DEMONSTRATION PROJECTS FOR SERVICES PROVIDED IN THE HOME.

(a) DEMONSTRATION PROJECTS AUTHORIZED.—Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034 et seq.), as amended by section 156(e)(1), is amended by adding at the end the following:

"CONSUMER PROTECTION DEMONSTRATION PROJECTS FOR SERVICES PROVIDED IN THE HOME

"SEC. 428. (a)(1) The Commissioner is authorized to make grants to not fewer than 6 nor more than 10 States to demonstrate and evaluate the effectiveness of consumer protection projects for services (other than medical services) provided to older individuals in the home that are furnished or assisted with public funds.

"(2) Grants made under this section shall be used to test different approaches to protecting older individuals with regard to services in the home. Such projects may provide consumer protection through State and local ombudsmen, legal assistance agencies, and other community service agencies.

"(b) No grant may be made under this section unless an application is made to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require. Each such application shall—

"(1) describe activities for which assistance is sought;

"(2) provide for an evaluation of the activities for which assistance is sought; and

"(3) provide assurances that the applicant will prepare and submit a report to the Commissioner on the activities conducted with assistance under this section and the evaluation of such activities.

"(c) In approving applications under this section, the Commissioner shall assure equitable geographic distribution of assistance.

"(d) The Commissioner shall, as part of the annual report submitted under section 207, prepare and submit a report on the evaluations submitted under this section, together with such recommendations as the Commissioner deems appropriate. In carrying out this section, the Commissioner shall include in the report—

"(1) a description of the demonstration projects assisted under this section;

"(2) an evaluation of the effectiveness of each such project; and

"(3) recommendations of the Commissioner with respect to the desirability and feasibility of carrying out on a nationwide basis a consumer protection program for services in the home.

"(e) Consumer protection projects carried out under this section—

"(1) may include, but are not limited to, consumer education, the use of consumer hotlines, receipt and resolution of consumer complaints, and advocacy; and

"(2) may not address medical services.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431(a)(1) of the Older Americans Act of 1965 (42 U.S.C 3037(a)(1)), as amended by section 156(e)(2), is amended—

(1) by striking "section 427" in the parenthetical and inserting "sections 427 and 428", and

(2) by adding at the end the following:

"(3) Subject to subsection (b), there is authorized to be appropriated $2,000,000 for each of the fiscal years 1989 and 1990 to carry out the provisions of section 428.".

SEC. 158. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS.

Paragraph (1) of section 431(a) of the Older Americans Act of 1965 (42 U.S.C. 3037(a)(1)), as amended by sections 156(e)(2) and 157(b), is amended to read as follows:

"(1) There are authorized to be appropriated to carry out the provisions of this title (other than sections 427 and 428) $32,970,000 for the fiscal year 1988, $34,619,000 for the fiscal year 1989, $36,349,000 for the fiscal year 1990, and $38,167,000 for the fiscal year 1991.

SEC. 159. LIMITATION ON CERTAIN AUTHORITY TO MAKE APPROPRIATIONS.

Section 431 of the Older Americans Act of 1965 (42 U.S.C. 3037) is amended—

(1) by redesignating subsection (b) as subsection (c), and

(2) by inserting after subsection (a) the following:

"(b) No funds may be appropriated under paragraph (2) or (3) of subsection (a) for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out this title (other than sections 427 and 428), title III (other than sections 306(a)(6)(P), 307(a)(12), and 311, and parts E, F, and G), title V, and title VI exceeds 105 percent of the aggregate amount appropriated for the preceding fiscal year to carry out such titles.".

PART D—COMMUNITY SERVICE EMPLOYMENT

SEC. 161. ADMINISTRATIVE COSTS OF EMPLOYMENT PROJECTS.

Section 502(c)(3) of the Older Americans Act of 1965 (42 U.S.C. 3056(c)(3)) is amended to read as follows:

"(3) Of the amount for any project to be paid by the Secretary under this subsection, not more than 13.5 percent for fiscal year 1987 and each fiscal year thereafter shall be available for paying the costs of administration for such project, except that—

"(A) whenever the Secretary determines that it is necessary to carry out the project assisted under this title, based on information submitted by the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b), the Secretary may increase the amount available for

paying the cost of administration to an amount not more than 15 percent of the cost of such project; and

"(B) whenever the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b) demonstrates to the Secretary that—

"(i) major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workers' compensation, costs associated with achieving unsubsidized placement goals, and other operation requirements imposed by the Secretary;

"(ii) the number of employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available for paying the cost of administration is not increased; or

"(iii) the size of the project is so small that the amount of administrative expenses incurred to carry out the project necessarily exceed 13.5 percent of the amount for such project;

the Secretary shall increase the amount available for the fiscal year for paying the cost of administration to an amount not more than 15 percent of the cost of such project.".

SEC. 162. COMMUNITY SERVICE EMPLOYMENT SPECIAL NEEDS ASSURANCE.

(a) PROGRAM ASSURANCE.—Section 502(b)(1)(M) of the Older Americans Act of 1965 (42 U.S.C. 3056(b)(1)(M)) is amended to read as follows:

"(M) will assure, that to the extent feasible, such project will serve the needs of minority, limited English-speaking, and Indian eligible individuals in proportion to their numbers in the State and take into consideration their rates of poverty and unemployment;".

(b) RESERVATION OF FUNDS.—Section 506(a)(1)(A) of the Older Americans Act of 1965 (42 U.S.C 3056d(a)(1)(A)) is amended by inserting after the first sentence the following: "Beginning with the first fiscal year in which the amount appropriated to carry out this title exceeds the amount appropriated for fiscal year 1987 to carry out this title, the Secretary shall next reserve such sums as may be necessary for national grants or contracts with public or nonprofit national Indian aging organizations with the ability to provide employment services to older Indians and with national public or nonprofit Pacific Island and Asian American aging organizations with the ability to provide employment services to older Pacific Island and Asian Americans.".

SEC. 163. INFORMATION ON AGE DISCRIMINATION PROHIBITIONS.

Section 503(b) of the Older Americans Act of 1965 (42 U.S.C. 3056a(b) is amended—

(1) by inserting "(1)" after "(b)", and

(2) by adding at the end the following:

"(2) The Secretary shall distribute to grantees under this title, for distribution to program enrollees, and at no cost to grantees or enrollees, informational materials developed and supplied by the Equal Employment Opportunity Commission and other appropriate Federal agencies which the Secretary determines are designed to

help enrollees identify age discrimination and understand their rights under the Age Discrimination in Employment Act of 1967.".

SEC. 164. DEFINITIONS.

(a) Community Services.—Section 507(3) of the Older Americans Act of 1965 (42 U.S.C. 3056e(3)) is amended by inserting "(particularly literacy tutoring)" after "educational services".

(b) Pacific Island and Asian Americans.—Section 507 of the Older Americans Act of 1965 (42 U.S.C. 3056e) is amended—

(1) in paragraph (3) by striking "and" at the end,

(2) in paragraph (4) by striking the period at the end, and

(3) by adding at the end the following:

"(5) the term 'Pacific Island and Asian Americans' means Americans having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.".

SEC. 165. AUTHORIZATION OF APPROPRIATIONS FOR COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS.

Section 508(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3056f(a)(1)) is amended to read as follows:

"(1) $386,715,000 for the fiscal year 1988, $406,051,000 for the fiscal year 1989, $426,353,000 for the fiscal year 1990, and $447,671,000 for the fiscal year 1991.".

SEC. 166. EMPLOYMENT ASSISTANCE AND OTHER PROGRAMS.

Title V of the Older Americans Act of 1965 (42 U.S.C. 3056–3056f) is amended by adding at the end the following:

"EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS

"Sec. 509. Funds received by eligible individuals from projects carried out under the program established in this title shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other persons, to participate in any housing program for which Federal funds may be available or for any income determination under the Food Stamp Act of 1977.".

PART E—NATIVE AMERICAN PROGRAMS

SEC. 171. NATIVE AMERICAN PROGRAMS.

Title VI of the Older Americans Act of 1965 (42 U.S.C. 3057–3057g) is amended to read as follows:

"TITLE VI—GRANTS FOR NATIVE AMERICANS

"STATEMENT OF PURPOSE

"Sec. 601. It is the purpose of this title to promote the delivery of supportive services, including nutrition services to American Indians, Alaskan Natives, and Native Hawaiians that are comparable to services provided under title III.

"SENSE OF CONGRESS

"SEC. 602. It is the sense of the Congress that older Indians, older Alaskan Natives, and older Native Hawaiians are a vital resource entitled to all benefits and services available and that such services and benefits should be provided in a manner that preserves and restores their respective dignity, self-respect, and cultural identities.

"PART A—INDIAN PROGRAM

"FINDINGS

"SEC. 611. (a) The Congress finds that the older Indians of the United States—

"(1) are a rapidly increasing population;

"(2) suffer from high unemployment;

"(3) live in poverty at a rate estimated to be as high as 61 percent;

"(4) have a life expectancy between 3 and 4 years less than the general population;

"(5) lack sufficient nursing homes, other long-term care facilities, and other health care facilities;

"(6) lack sufficient Indian area agencies on aging;

"(7) frequently live in substandard and over-crowded housing;

"(8) receive less than adequate health care;

"(9) are served under this title at a rate of less than 19 percent of the total national Indian elderly population living on Indian reservations; and

"(10) are served under title III at a rate of less than 1 percent of the total participants under that title.

"ELIGIBILITY

"SEC. 612. (a) A tribal organization of an Indian tribe is eligible for assistance under this part only if—

"(1) the tribal organization represents at least 50 individuals who are 60 years of age or older; and

"(2) the tribal organization demonstrates the ability to deliver supportive services, including nutritional services.

"(b) For the purposes of this part the terms 'Indian tribe' and 'tribal organization' have the same meaning as in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"GRANTS AUTHORIZED

"SEC. 613. The Commissioner may make grants to eligible tribal organizations to pay all of the costs for delivery of supportive services and nutrition services for older Indians.

"APPLICATIONS

"SEC. 614. (a) No grant may be made under this part unless the eligible tribal organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

"(1) provide that the eligible tribal organization will evaluate the need for supportive and nutrition services among older Indians to be represented by the tribal organization;

"(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

"(3) provide that the tribal organization will make such reports in such form and containing such information, as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to assure the correctness of such reports;

"(4) provide for periodic evaluation of activities and projects carried out under the application;

"(5) establish objectives consistent with the purposes of this part toward which activities under the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the tribal organization proposes to overcome such obstacles;

"(6) provide for establishing and maintaining information and referral services to assure that older Indians to be served by the assistance made available under this part will have reasonably convenient access to such services;

"(7) provide a preference for Indians aged 60 and older for full or part-time staff positions wherever feasible;

"(8) provide assurances that either directly or by way of grant or contract with appropriate entities nutrition services will be delivered to older Indians represented by the tribal organization substantially in compliance with the provisions of part C of title III, except that in any case in which the need for nutritional services for older Indians represented by the tribal organization is already met from other sources, the tribal organization may use the funds otherwise required to be expended under this clause for supportive services;

"(9) contain assurances that the provisions of sections 307(a)(14)(A) (i) and (iii), 307(a)(14)(B), and 307(a)(14)(C) will be complied with whenever the application contains provisions for the acquisition, alteration, or renovation of facilities to serve as multipurpose senior centers;

"(10) provide that any legal or ombudsman services made available to older Indians represented by the tribal organization will be substantially in compliance with the provisions of title III relating to the furnishing of similar services; and

"(11) provide satisfactory assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the tribal organization, including any funds paid by the tribal organization to a recipient of a grant or contract.

"(b) For the purpose of any application submitted under this part, the tribal organization may develop its own population statistics, with certification from the Bureau of Indian Affairs, in order to establish eligibility.

"(c) The Commission shall approve any application which complies with the provisions of subsection (a).

“(d) Whenever the Commissioner determines not to approve an application submitted under subsection (a) the Commission shall—

“(1) state objections in writing to the tribal organization within 60 days after such decision;

“(2) provide to the extent practicable technical assistance to the tribal organization to overcome such stated objections; and

“(3) provide the tribal organization with a hearing, under such rules and regulations as the Commissioner may prescribe.

“(e) Whenever the Commissioner approves an application of a tribal organization under this part, funds shall be awarded for not less than 12 months.

“SURPLUS EDUCATIONAL FACILITIES

“SEC. 615. (a) Notwithstanding any other provision of law, the Secretary of the Interior through the Bureau of Indian Affairs shall make available surplus Indian educational facilities to tribal organizations, and nonprofit organizations with tribal approval, for use as multipurpose senior centers. Such centers may be altered so as to provide extended care facilities, community center facilities, nutrition services, child care services, and other supportive services.

“(b) Each eligible tribal organization desiring to take advantage of such surplus facilities shall submit an application to the Secretary of the Interior at such time and in such manner, and containing or accompanied by such information, as the Secretary of the Interior determines to be necessary to carry out the provisions of this section.

“PART B—NATIVE HAWAIIAN PROGRAM

“FINDINGS

“SEC. 621. The Congress finds the older Native Hawaiians—

“(1) have a life expectancy 10 years less than any other ethnic group in the State of Hawaii;

“(2) rank lowest on 9 of 11 standard health indicies for all ethnic groups in Hawaii;

“(3) are often unaware of social services and do not know how to go about seeking such assistance; and

“(4) live in poverty at a rate of 34 percent.

“ELIGIBILITY

“SEC. 622. A public or nonprofit private organization having the capacity to provide services under this part for Native Hawaiians is eligible for assistance under this part only if—

“(1) the organization will serve at least 50 individuals who have attained 60 years of age or older; and

“(2) the organization demonstrates the ability to deliver supportive services, including nutrition services.

“GRANTS AUTHORIZED

“SEC. 623. The Commissioner may make grants to public and nonprofit private organizations to pay all of the costs for the delivery of supportive services and nutrition services to older Native Hawaiians.

"APPLICATION

"SEC. 624. (a) No grant may be made under this part unless the public or nonprofit private organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

"(1) provide that the organization will evaluate the need for supportive and nutrition services among older Native Hawaiians to be represented by the organization;

"(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

"(3) provide assurances that the organization will coordinate its activities with the State agency on aging;

"(4) provide that the organization will make such reports in such form and containing such information as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to ensure the correctness of such reports;

"(5) provide for periodic evaluation of activities and projects carried out under the application;

"(6) establish objectives, consistent with the purpose of this title, toward which activities described in the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the organization proposes to overcome such obstacles;

"(7) provide for establishing and maintaining information and referral services to assure that older Native Hawaiians to be served by the assistance made available under this part will have reasonably convenient access to such services;

"(8) provide a preference for Native Hawaiians 60 years of age and older for full or part-time staff positions wherever feasible;

"(9) provide that any legal or ombudsman services made available to older Native Hawaiians represented by the nonprofit private organization will be substantially in compliance with the provisions of title III relating to the furnishing and similar services; and

"(10) provide satisfactory assurances that the fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the nonprofit private organization, including any funds paid by the organization to a recipient of a grant or contract.

"(b) The Commissioner shall approve any application which complies with the provisions of subsection (a).

"(c) Whenever the Commissioner determines not to approve an application submitted under subsection (a) the Commissioner shall—

"(1) state objections in writing to the nonprofit private organization within 60 days after such decision;

"(2) provide to the extent practicable technical assistance to the nonprofit private organization to overcome such stated objections; and

"(3) provide the organization with a hearing under such rules and regulations as the Commissioner may prescribe.

"(d) Whenever the Commissioner approves an application of a nonprofit private or public organization under this part funds shall be awarded for not less than 12 months.

"DEFINITION

"SEC. 625. For the purpose of this part, the term 'Native Hawaiian' means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

"PART C—GENERAL PROVISIONS

"ADMINISTRATION

"SEC. 631. In establishing regulations for the purpose of part A the Commissioner shall consult with the Secretary of the Interior.

"PAYMENTS

"SEC. 632. Payments may be made under this title (after necessary adjustments, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement in such installments and on such conditions, as the Commissioner may determine.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 633. (a) Subject to subsection (b), there are authorized to be appropriated to carry out this title (other than section 615)—

"(1) $13,400,000 for fiscal year 1988, of which $12,100,000 shall be available to carry out part A and $1,300,000 shall be available to carry out part B;

"(2) $16,265,000 for fiscal year 1989, of which $14,900,000 shall be available to carry out part A and $1,365,000 shall be available to carry out part B;

"(3) $19,133,000 for fiscal year 1990, of which $17,700,000 shall be available to carry out part A and $1,433,000 shall be available to carry out part B; and

"(4) $22,105,000 for fiscal year 1991, of which $20,600,000 shall be available to carry out part A and $1,505,000 shall be available to carry out part B.".

"(b)(1) If the amount appropriated under subsection (a) for a fiscal year does not exceed the amount appropriated to carry out this title (as in effect before the effective date of the Older Americans Act Amendments of 1987) in fiscal year 1987, then the amount appropriated under subsection (a) for such fiscal year shall be available only to carry out part A.

"(2) If the amount appropriated under subsection (a) for a fiscal year exceeds the amount appropriated to carry out this title (as in effect before the effective date of the Older Americans Act Amendments of 1987) in fiscal year 1987, then—

"(A) $250,000 of such excess shall be made available to carry out part B; and

"(B) one-half of the remaining amount of such excess shall be made available to carry out part B;

except that the aggregate amount made available to carry out part B may not exceed the amount required (without regard to this paragraph) by subsection (a) to be made available to carry out part B.".

PART F—MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 181. REPEAL OF OLDER AMERICANS PERSONAL HEALTH EDUCATION AND TRAINING PROGRAM.

Title VII of the Older Americans Act of 1965 (42 U.S.C. 3058-3058d) is repealed.

SEC. 182. TECHNICAL AMENDMENTS.

(a) Section 102(1) of the Older Americans Act of 1965 (42 U.S.C. 3002(1)) is amended by striking "other than for purposes of title V" and inserting "except that for purposes of title V such term means the Secretary of Labor".

(b)(1) Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended—

(A) in paragraph (3)—

(i) by striking "includes" and inserting "means any of the several States,", and

(ii) by striking "Puerto Rico" and inserting "the Commonwealth of Puerto Rico", and

(B) by adding at the end the following:

"(8) The term 'Trust Territory of the Pacific Islands' includes the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.".

(2) Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022), as amended by sections 136(a) and 144(a), is amended—

(A) by striking paragraph (6), and

(B) by redesignating paragraphs (7) through (20) as paragraphs (6) through (19), respectively.

(3) Section 506(a)(4)(A) of the Older Americans Act of 1965 (42 U.S.C. 3056d(a)(4)(A)) is amended by striking "Puerto Rico" and inserting "the Commonwealth of Puerto Rico".

(4) Section 507 of the Older Americans Act of 1965 (42 U.S.C. 3056e), as amended by section 164(b), is amended—

(A) by striking paragraph (1), and

(B) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(c) Section 201(a) of the Older Americans Act of 1965 (42 U.S.C. 3011(a)) is amended by striking "his functions" and inserting "the functions of the Commissioner".

(d) Section 204(d)(3) of the Older Americans Act of 1965 (42 U.S.C. 3015(d)(3)) is amended by inserting "to" after "Secretary,".

(e)(1) Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022), as amended by subsection (b)(2) and sections 136(a) and 144(a), is amended by adding at the end the following:

"(20) The term 'greatest economic need' means the need resulting from an income level at or below the poverty levels established by the Office of Management and Budget.

"(21) The term 'greatest social need' means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation including that caused by racial or ethnic status *which restricts an individual's ability to perform normal daily tasks or which threatens such individual's capacity to live independently.".*

(2) Section 305(d) of the Older Americans Act of 1965 (42 U.S.C. 3025(d)) is amended—

(A) by striking "(d)(1)" and inserting "(d)", and

(B) by striking paragraph (2).

(3) Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)) is amended by striking the last sentence.

(f) Section 304(d)(1) of the Older Americans Act of 1965 (42 U.S.C. 3024(d)(1)) is amended in the matter preceding subparagraph (A) by inserting a comma after "section 308(b)".

(g) Section 305(a)(1)(E) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1)(E)) is amended by striking "legal services" and inserting "legal assistance".

(h) Section 305(a)(2)(C) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(2)(C)) is amended by inserting "in accordance with subsection (d)" before the semicolon at the end.

(i) Section 306(a)(6)(G) of the Act (42 U.S.C. 3026(a)(6)(G)), as amended by section 137(b), is amended by striking "and" at the end.

(j) Section 306(a)(2)(B) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(2)(B)) is amended by striking "other neurological and organic brain disorders of the Alzheimer's type" and inserting "related disorders with neurological and organic brain dysfunction".

(k) Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended—

(1) by striking "Each such plan shall—" and inserting "Each such plan shall comply with all of the following requirements:",

(2) in paragraph (1)—

(A) by inserting "The plan shall" after "(1)", and

(B) by striking the semicolon at the end and inserting a period,

(3) in paragraph (2)—

(A) by inserting "The plan shall" after "(2)", and

(B) by striking the semicolon at the end and inserting a period,

(4) in paragraph (3)—

(A) in subparagraph (A) by inserting "The plan shall" after "(3)(A)", and

(B) in subparagraph (B)—

(i) by inserting "The plan shall" after "(B)", and

(ii) by striking the semicolon at the end and inserting a period,

(5) in paragraph (4)—

(A) by inserting "The plan shall" after "(4)", and

(B) by striking the semicolon at the end and inserting a period,

(6) in paragraph (5)—

(A) by inserting "The plan shall" after "(5)", and

(B) by striking the semicolon at the end and inserting a period,

(7) in paragraph (6)—

(A) by inserting "The plan shall" after "(6)", and

(B) by striking the semicolon at the end and inserting a period,

(8) in paragraph (7)—

(A) by inserting "The plan shall" after "(7)", and

(B) by striking the semicolon at the end and inserting a period,

(9) in paragraph (8)—

(A) by inserting "The plan shall" after "(8)", and

(B) by striking the semicolon at the end and inserting a period,

(10) in paragraph (9)—

(A) by inserting "The plan shall" after "(9)", and

(B) by striking the semicolon at the end and inserting a period,

(11) in paragraph (10)—

(A) by inserting "The plan shall" after "(10)", and

(B) by striking the semicolon at the end and inserting a period,

(12) in paragraph (11)—

(A) by inserting "The plan shall" after "(11)", and

(B) by striking the semicolon at the end and inserting a period,

(13) in paragraph (13)—

(A) by inserting "The plan shall" after "(13)", and

(B) in subparagraph (I) by striking the semicolon at the end and inserting a period,

(14) in paragraph (14)—

(A) by inserting "The plan shall" after "(14)", and

(B) in subparagraph (E) by striking the semicolon at the end and inserting a period,

(15) in paragraph (15)—

(A) by inserting "The plan shall" after "(15)", and

(B) in subparagraph (D) by striking the semicolon and inserting a period,

(16) in paragraph (16)—

(A) by inserting "The plan shall" after "(16)", and

(B) in subparagraph (C) by striking the semicolon at the end and inserting a period,

(17) in paragraph (17)—

(A) by inserting "The plan shall" after "(17)", and

(B) by striking the semicolon at the end and inserting a period,

(18) in paragraph (18)—

(A) by inserting "The plan shall" after "(18)", and

(B) by striking the semicolon at the end and inserting a period,

(19) in paragraph (19)—

(A) by inserting "The plan shall" after "(19)", and

(B) by striking the semicolon at the end and inserting a period, and

(20) in paragraph (20)—

(A) by inserting "The plan shall" after "(20)", and

(B) in subparagraph (B)(ii) by striking "; and" at the end and inserting a period.

(l) Section 308(b) of the Older Americans Act of 1965 (42 U.S.C. 3028(b)) is amended—

(1) by striking "(b)(1)(A)" and inserting "(b)(1)",

(2) in paragraph (1)—

(A) by striking "(i)" and inserting "(A)", and

(B) by striking "(ii)" the second place it appears and inserting "(B)",

(3) in paragraph (2)—

(A) by striking "(2)(A)" and inserting "(2)",

(B) by striking "(i)" and inserting "(A)", and

(C) by striking "(ii)" the second place it appears and inserting "(B)",

(4) in paragraph (3)(C) by striking "he" and inserting "the Commissioner",

(5) in subparagraphs (A) and (B) of paragraph (5) by striking "appropriated" each place it appears and inserting "allotted", and

(6) in paragraph (5)(B) beginning with the dash strike out all through the period and insert: "not more than 30 percent of the funds allotted for any fiscal year.".

(m) Section 321(a)(10) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)(10)) is amended by inserting "for" after "advocate".

(n) Section 337 of the Older Americans Act of 1965 (42 U.S.C. 3030g) is amended by striking "Association of Area Agencies on Aging" and inserting "National Association of Area Agencies on Aging".

(o) Section 422(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3035a(b)(1)) is amended by striking "Alzheimers' disease and other organic and neurological brain disorders of the Alzheimers' type" and inserting "Alzheimer's disease and related disorders with neurological and organic brain dysfunction".

(p) Section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(2)), as amended by subsection (b)(4), is amended by striking "the Bureau of Labor Statistics" and inserting "the Office of Management and Budget".

PART G—CONSUMER PRICE INDEX FOR OLDER AMERICANS

SEC. 191. INDEX AUTHORIZED.

The Secretary of Labor shall, through the Bureau of Labor Statistics, develop, from existing data sources, a reweighted index of consumer prices which reflects the expenditures for consumption by Americans 62 years of age and older. The Secretary shall furnish to the Congress the index within 180 days after the date of enactment of this Act. The Secretary shall include with the index furnished a report which explains the characteristics of the reweighted index, the research necessary to develop and measure accurately the rate of inflation affecting such Americans, and provides estimates of time and cost required for additional activities necessary to carry out the objectives of this section.

TITLE II—1991 WHITE HOUSE CONFERENCE ON AGING

SEC. 201. WHITE HOUSE CONFERENCE AUTHORIZED.

(a) FINDINGS.—The Congress finds that—

(1) the number of individuals 55 years of age or older was approximately 51,400,000 in 1986, and will, by the year 2040, be approximately 101,700,000,

(2) more than 1 of every 6 persons 55 years of age or older will be hospitalized during the next year,

(3) persons 55 years of age or older have a higher average out-of-pocket medical cost burden than younger persons; approximately 17 percent of individuals age 55 to 64 experience out-of-pocket costs in excess of 20 percent of their family income and the average per capita out-of-pocket cost of persons 65 years of age or older is expected to equal 18.5 percent of income by 1991,

(4) there is a great need to ensure access and the quality of affordable health care to all older individuals,

(5) the need for a comprehensive and responsive long-term care delivery system is great,

(6) the availability and cost of suitable housing, together with suitable services needed for independent or semi-independent living, still cause concern to older individuals,

(7) the ability to lead an independent or semi-independent life is contingent, in many cases, upon the availability of a comprehensive and effective social service system for older individuals,

(8) the availability and access to opportunities for continued productivity and employment is of great importance to middle-aged and older individuals who want or need to work,

(9) the fulfillment, dignity, and satisfaction of retirees still depend on the continuing development of a consistent national retirement policy,

(10) there is a continuing need to maintain and preserve the national policy with respect to increasing, coordinating, and expediting biomedical and other appropriate research directed at determining the causes and effects of the aging process,

(11) false stereotypes about aging and the process of aging continue to be prevalent throughout the United States and policies should be nurtured to overcome such stereotypes, and

(12) the talents and experience of older individuals represent a valuable community resource which should be developed and more widely shared within the local community.

(b) POLICY.—It is the policy of the Congress that—

(1) the Federal Government should work jointly with the States and their citizens to develop recommendations and plans for action to meet the challenges and needs of older individuals, consistent with the objectives of this section, and

(2) in developing programs for the aging pursuant to this section emphasis should be directed toward individual, private, and public initiatives and resources intended to enhance the economic security and self-sufficiency of elder Americans.

SEC. 202. AUTHORIZATION OF THE CONFERENCE.

(a) AUTHORITY TO CALL CONFERENCE.—The President may call a White House Conference on Aging in 1991 in order to develop recommendations for additional research and action in the field of aging which will further the policy set forth in subsection (b).

(b) PLANNING AND DIRECTION.—The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Commissioner on Aging and the Director of the National Institute on Aging, and the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(c) PURPOSE OF THE CONFERENCE.—The purpose of the Conference shall be—

(1) to increase the public awareness of the essential contributions of older individuals to society,

(2) to identify the problems of the older individuals,

(3) to develop recommendations for the coordination of Federal policy with State and local needs and the implementation of such recommendations,

(4) to examine the well-being of older individuals,

(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and improving the well-being of older individuals, and

(6) to review the status of recommendations adopted at previous White House Conferences on Aging.

(d) CONFERENCE PARTICIPANTS AND DELEGATES.—

(1) PARTICIPANTS.—In order to carry out the purposes of this section, the Conference shall bring together—

(A) representatives of Federal, State, and local governments,

(B) professional and lay people who are working in the field of aging, and

(C) representatives of the general public, particularly older individuals.

(2) SELECTION OF DELEGATES.—The delegates shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of aging.

SEC. 203. CONFERENCE ADMINISTRATION.

(a) ADMINISTRATION.—In administering this section, the Secretary shall—

(1) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate in the carrying out of this section,

(2) furnish all reasonable assistance, including financial assistance, to State agencies on the aging and to area agencies on the aging, and to other appropriate organizations, to enable them to organize and conduct conferences in conjunction with the Conference,

(3) prepare and make available for public comment a proposed agenda for the Conference which will reflect to the great-

est extent possible the major issues facing older individuals consistent with the provisions of subsection (a),

(4) prepare and make available background materials for the use of delegates to the Conference which the Secretary deems necessary, and

(5) engage such additional personnel as may be necessary to carry out the provisions of this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) DUTIES.—The Secretary shall, in carrying out the Secretary's responsibilities and functions under this section, assure that—

(1) the conferences under subsection (a)(2) will—

(A) include a conference on older Indians to identify conditions that adversely affect older Indians, to propose solutions to ameliorate such conditions, and to provide for the exchange of information relating to the delivery of services to older Indians, and

(B) be so conducted as to assure broad participation of older individuals,

(2) the proposed agenda for the Conference under subsection (a)(3) is published in the Federal Register not less than 180 days before the beginning of the Conference and the proposed agenda is open for public comment for a period of not less than 60 days,

(3) the final agenda for the Conference under subsection (a)(3), taking into consideration the comments received under paragraph (2), is published in the Federal Register and transmitted to the chief executive officers of the States not later than 30 days after the close of the public comment period provided for under paragraph (2),

(4) the personnel engaged under subsection (a)(5) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation or previous partisan activities,

(5) the recommendations of the Conference are not inappropriately influenced by any appointing authority or by any special interest, but will instead be the result of the independent judgment of the Conference, and

(6) current and adequate statistical data, including decennial census data, and other information on the well-being of older individuals in the United States are readily available, in advance of the Conference, to the delegates of the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to aging. In carrying out this subparagraph, the Secretary is authorized to make grants to, and enter into cooperative agreements with, public agencies and nonprofit private organizations.

SEC. 204. CONFERENCE COMMITTEES.

(a) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee to the Conference which shall include representation from the Federal Council on Aging and other public agencies and private nonprofit organizations as appropriate.

(b) Other Committees.—The Secretary may establish such other committees, including technical committees, as may be necessary to assist in the planning, conducting, and reviewing the Conference.

(c) Composition of Committees.—Each such committee shall be composed of professionals and public members, and shall include individuals from low-income families and from minority groups. A majority of the public members of each such committee shall be 55 years of age or older.

(d) Compensation.—Appointed members of any such committee (other than any officers of employees or the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not to exceed the daily prescribed rate for GS–18 under section 5332 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons employed intermittently in Federal Government service.

SEC. 205. REPORT OF THE CONFERENCE.

(a) Proposed Report.—A proposed report of the Conference, which shall include a statement of comprehensive coherent national policy on aging together with recommendations for the implementation of the policy, shall be published and submitted to the chief executive officers of the States not later than 60 days following the date on which the Conference is adjourned. The findings and recommendations included in the published proposed report shall be immediately available to the public.

(b) Response to Proposed Report.—The chief executive officers of the States, after reviewing and soliciting recommendations and comments on the report of the Conference, shall submit to the Secretary, not later than 180 days after receiving the report, their views and findings on the recommendations of the Conference.

(c) Final Report.—The Secretary shall, after reviewing the views and recommendations of the chief executive officers of the States, prepare a final report of the Conference, which shall include a compilation of the actions of the chief executive officers of the States and take into consideration the views and findings of such officers.

(d) Recommendations of Secretary.—The Secretary shall, within 90 days after submission of the views of the chief executive officers of the States, publish and transmit to the President and to the Congress recommendations for the administrative action and the legislation necessary to implement the recommendations contained within the report.

SEC. 206. DEFINITIONS.

For the purposes of this title—

(1) the term "area agency on aging" means the agency designated under section 305(a)(2)(A) of the Act,

(2) the term "State agency on aging" means the State agency designated under section 305(a)(1) of the Act,

(3) the term "Secretary" means the Secretary of Health and Human Services,

(4) the term "Conference" means the White House Conference on Aging authorized in subsection (b), and

(5) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary, for each of the fiscal years 1989, 1990, and 1991, to carry out this title. Sums appropriated under this paragraph shall remain available until the expiration of the 1-year period beginning on the date the Conference is adjourned. New spending authority or authority to enter into contracts as provided in this section shall be effective only to the extent and in such amounts as are provided in advance in appropriations Acts.

(b) RETURN OF UNEXPENDED FUNDS.—Any funds remaining upon the expiration of such 1-year period shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

TITLE III—ALZHEIMER'S DISEASE RESEARCH

SEC. 301. REQUIREMENT FOR CLINICAL TRIALS.

(a) IN GENERAL.—The Director of the National Institute on Aging shall provide for the conduct of clinical trials on the efficacy of the use of such promising therapeutic agents as have been or may be discovered and recommended for further scientific analysis by the National Institute on Aging and the Food and Drug Administration to treat individuals with Alzheimer's disease, to retard the progression of symptoms of Alzheimer's disease, or to improve the functioning of individuals with such disease.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to affect adversely any research being conducted as of the date of the enactment of this Act.

SEC. 302. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out section 301, there is authorized to be appropriated $2,000,000 for fiscal year 1988.

TITLE IV—NATIONAL SCHOOL LUNCH ACT AMENDMENT

SEC. 401. PARTICIPATION OF OLDER PERSONS AND CHRONICALLY IMPAIRED DISABLED PERSONS IN CHILD CARE FOOD PROGRAM.

Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended by adding at the end the following:

"(p)(1) For purposes of this section, adult day care centers shall be considered eligible institutions for reimbursement for meals or supplements served to persons 60 years of age or older or to chronically impaired disabled persons, including victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunc-

tion. Reimbursement provided to such institutions for such purposes shall improve the quality of meals or level of services provided or increase participation in the program.

"(2) For purposes of this subsection—

"(A) the term 'adult day care center' means any public agency or private nonprofit organization, or any proprietary title XIX or title XX center, which—

"(i) is licensed or approved by Federal, State, or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years of age or older in a group setting outside their homes on a less than 24-hour basis; and

"(ii) provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services; and

"(B) the term 'proprietary title XIX or title XX center' means any private, for-profit center providing adult day care services for which it receives compensation from amounts granted to the States under title XIX or XX of the Social Security Act and which title XIX or title XX beneficiaries were not less than 25 per cent of enrolled eligible participants in a calendar month preceding initial application or annual reapplication for program participation.

"(3)(A) The Secretary of Agriculture, in consultation with the Commissioner on Aging, may establish separate guidelines for reimbursement of institutions described in this subsection.

"(B) The guidelines shall contain provisions designed to assure that reimbursement under this subsection shall not duplicate reimbursement under part C of title III of the Older Americans Act of 1965, for the same meal served.".

TITLE V—NATIVE AMERICAN PROGRAMS

SEC. 501. SHORT TITLE.

This title may be cited as the "Native American Programs Act Amendments of 1987".

SEC. 502. REVIEW OF APPLICATIONS FOR ASSISTANCE.

The Native American Programs Act of 1974 (42 U.S.C. 2991–2992d) is amended—

(1) in the first sentence of section 803(a) by inserting ", on a single year or multiyear basis," after "financial assistance",

(2) by redesignating sections 813 and 814 as sections 815 and 816, respectively,

(3) by redesignating sections 806 through 812, as sections 807 through 813, respectively, and

(4) by inserting after section 805 the following:

"PANEL REVIEW OF APPLICATIONS FOR ASSISTANCE

"SEC. 806. (a)(1) The Secretary shall establish a formal panel review process for purposes of—

"(A) evaluating applications for financial assistance under sections 803 and 805; and

"(B) determining the relative merits of the projects for which such assistance is requested.

"(2) To implement the process established under paragraph (1), the Secretary shall appoint members of review panels from among individuals who are not officers or employees of the Administration for Native Americans. In making appointments to such panels, the Secretary shall give preference to American Indians, Native Hawaiians, and Alaskan Natives.

"(b) Each review panel appointed under subsection (a)(2) that reviews any application for financial assistance shall—

"(1) determine the merit of each project described in such application;

"(2) rank such application with respect to all other applications it reviews for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

"(3) submit to the Secretary a list that identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2).

"(c) Upon the request of the chairman of the Select Committee on Indian Affairs of the Senate or of the chairman of the Committee on Education and Labor of the House of Representatives made with respect to any application for financial assistance under section 803 or 805, the Secretary shall transmit to the chairman written notice—

"(1) identifying such application;

"(2) containing a copy of the list submitted to the Secretary under subsection (b)(3) in which such application is ranked;

"(3) specifying which other applications ranked in such list have been approved by the Secretary under sections 803 and 805; and

"(4) if the Secretary has not approved each application superior in merit, as indicated on such list, to the application with respect to which such notice is transmitted, containing a statement of the reasons relied upon by the Secretary for—

"(A) approving the application with respect to which such notice is transmitted; and

"(B) failing to approve each pending application that is superior in merit, as indicated on such list, to the application described in subparagraph (A).".

SEC. 503. PROCEDURAL REQUIREMENTS.

(a) RULEMAKING.—The Native American Programs Act of 1974 (42 U.S.C. 2991–2992d) is amended by inserting after section 813, as so redesignated by section 502, the following:

"ADDITIONAL REQUIREMENTS APPLICABLE TO RULEMAKING

"SEC. 814. (a) Notwithstanding subsection (a) of section 553 of title 5, United States Code, and except as otherwise provided in this section, such section 553 shall apply with respect to the establishment and general operation of any program that provides loans, grants, benefits, or contracts authorized by this title.

"(b)(1) Subparagraph (A) of the last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any interpretative rule or general statement of policy—

"(A) proposed under this title; or

"(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title.

"(2) Subparagraph (B) of the last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any rule (other than an interpretative rule or a general statement of policy)—

"(A) proposed under this title; or

"(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title.

"(3) The first 2 sentences of section 553(b) of title 5, United States Code, shall apply with respect to any rule (other than an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice) that is—

"(A) proposed under this title; or

"(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title;

unless the Secretary for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in such rule) that notice and public procedure thereon are contrary to the public interest or would impair the effective administration of any program, project, or activity with respect to which such rule is issued.

"(c) Notwithstanding section 553(d) of title 5, United States Code, no rule (including an interpretative rule) or general statement of policy that—

"(1) is issued to carry out this title; or

"(2) applies exclusively to any program, project, or activity authorized by, or carried out under, this title;

may take effect until 30 days after the publication required under the first 2 sentences of section 553(b) of title 5, United States Code.

"(d) Each rule (including an interpretative rule) and each general statement of policy to which this section applies shall contain after each of its sections, paragraphs, or similar textual units a citation to the particular provision of statutory or other law that is the legal authority for such section, paragraph, or unit.

"(e) Except as provided in subsection (c), if as a result of the enactment of any law affecting the administration of this title it is necessary or appropriate for the Secretary to issue any rule (including any interpretative rule) or a general statement of policy, the Secretary shall issue such rule or such general statement of policy not later than 180 days after the date of the enactment of such law.

"(f) Whenever an agency publishes in the Federal Register a rule (including an interpretative rule) or a general statement of policy to which subsection (c) applies, such agency shall transmit a copy of such rule or such general statement of policy to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

(b) ***DEFINITION OF RULES.***—*Section 815 of the Native American Programs Act of 1974 (42 U.S.C. 2992c), as so redesignated by section 502, is amended—*

(1) in paragraph (3) by striking "and" at the end thereof,

(2) by redesignating paragraph (4) as paragraph (5), and

(3) by inserting after paragraph (3) the following:

"(4) the term 'rule' has the meaning given it in section 551(4) of title 5, United States Code, as amended from time to time; and".

SEC. 504. INCLUSION OF OTHER NATIVE AMERICAN PACIFIC ISLANDERS.

(a) Financial Assistance.—Section 803(a) of the Native American Programs Act of 1974 (42 U.S.C. 2991b(a)) is amended by inserting after the first sentence the following: "The Secretary is authorized, subject to the availability of funds appropriated under the authority of section 816(c), to provide financial assistance to public and nonprofit private agencies serving other Native American Pacific Islanders (including American Samoan Natives) for projects pertaining to the purposes of this Act.".

(b) Conforming Amendments.—(1) Section 802 of the Native American Programs Act of 1974 (42 U.S.C. 2991a) is amended by inserting ", other Native American Pacific Islanders (including American Samoan Natives)," after "Hawaiian Natives".

(2) Section 806(a)(2) of the Native American Programs Act, as added by section 502(4) of this Act, is amended by inserting "other Native American Pacific Islanders (including American Samoan Natives)," after "Hawaiian Natives,".

(3) Section 808 of the Native American Programs Act of 1974 (42 U.S.C. 2991f), as so redesignated by section 502, is amended by inserting "or Territory" after "State" each place it appears.

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d), as so redesignated by section 502 of this Act, is amended—

(1) in subsection (a) by striking "1979 through 1986" and inserting "1988, 1989, 1990, and 1991", and

(2) by adding at the end the following:

"(c)(1) Except as provided in paragraph (2), there are authorized to be appropriated $500,000 for each of the fiscal years 1988, 1989, 1990, and 1991 for the purpose of providing financial assistance to other Native American Pacific Islanders (including American Samoan Natives) under section 803(a).

"(2) No funds may be appropriated under paragraph (1) for a fiscal year unless the amount appropriated under subsection (a) for such fiscal year exceeds 105 percent of the amount appropriated under subsection (a) for the preceding fiscal year.".

SEC. 506. REVOLVING LOAN FUND FOR NATIVE HAWAIIANS.

(a) Establishment of Fund and Authority for Grants.—The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended by inserting after section 803 the following:

"LOAN FUND; DEMONSTRATION PROJECT

"Sec. 803A. (a)(1) In order to provide funding that is not available from private sources, the Secretary shall award grants to one agency of the State of Hawaii, or to one community-based Native Hawaiian organization whose purpose is the economic and social self-sufficiency of Native Hawaiians, which shall use such grants to

establish and carry out, in the State of Hawaii, a 5-year demonstration project involving the establishment of a revolving loan fund—

"(A) from which such agency or Native Hawaiian organization shall make loans to Native Hawaiian organizations and to individual Native Hawaiians for the purpose of promoting economic development in the State of Hawaii; and

"(B) into which all payments, interest, charges, and other amounts collected from loans made under subparagraph (A) shall be deposited notwithstanding any other provision of law.

"(2) The agreement under which a grant is awarded under paragraph (1) shall contain provisions which set forth the administrative costs of the grantee that are to be paid out of the funds provided under the grant.

"(b)(1) The agency or organization to which a grant is awarded under subsection (a)(1) may make loans to a borrower under subsection (a)(1)(A) only if the agency or organization determines that—

"(A) the borrower is unable to obtain financing from other sources on reasonable terms and conditions; and

"(B) there is a reasonable prospect that the borrower will repay the loan.

"(2) Loans made under subsection (a)(1)(A) shall be—

"(A) for a term that does not exceed 5 years; and

"(B) at a rate of interest that is 2 percentage points below the average market yield on the most recent public offering of United States Treasury bills occurring before the date on which the loan is made.

"(3) The agency or organization to which a grant is awarded under subsection (a)(1) may require any borrower of a loan made under subsection (a)(1)(A) to provide such collateral as the agency or organization determines to be necessary to secure the loan.

"(4) Prior to making loans under subsection (a)(1)(A), the agency or organization to which a grant is awarded under subsection (a)(1) shall establish written procedures and definitions pertaining to defaults and collections of payments under the loans which shall be subject to the review and approval of the Secretary. Such agency or organization shall provide to each applicant for a loan under subsection (a)(1)(A), at the time application for the loan is made, a written copy of such procedures and definitions.

"(5) The agency or organization to which a grant is awarded under subsection (a)(1) may not lend to itself any of the funds awarded under the grant.

"(6) No loan may be made from the revolving fund that is required to be established under subsection (a) after the close of the 5-year period beginning on the date of enactment of the Native American Programs Act Amendments of 1987.

"(c)(1) The agency or organization to which a grant is awarded under subsection (a)(1) shall provide the Secretary at regular intervals written notice of each loan made under subsection (a)(1)(A) that is in default and the status of such loan.

"(2)(A) After making reasonable efforts to collect all amounts payable under a loan made under subsection (a)(1)(A) that is in default, the agency or organization to which a grant is awarded under subsection (a)(1) shall notify the Secretary that such loan is uncollectable or collectable only at an unreasonable cost. Such notice shall in-

clude recommendations for future action to be taken by the agency or organization.

"(B) Upon receiving such notice, the Secretary shall instruct the agency or organization—

"(i) to continue with its collection activities;

"(ii) to cancel, adjust, compromise, or reduce the amount of such loan; or

"(iii) to modify any term or condition of such loan, including any term or condition relating to the rate of interest or the time of payment of any installment of principal or interest, or portion thereof, that is payable under such loan.

"(C) The agency or organization shall carry out all instructions received under subparagraph (B) from the Secretary.

"(d)(1) The agency or organization to which a grant is awarded under subsection (a)(1) shall, out of funds available in the revolving loan fund established under such subsection—

"(A) pay expenses incurred by the agency or organization in administering the revolving loan fund; and

"(B) provide competent management and technical assistance to borrowers of loans made under subsection (a)(1)(A) to assist the borrowers to achieve the purposes of such loans.

"(2) The Secretary shall provide to the agency or organization to which a grant is made under subsection (a)(1) such management and technical assistance as the agency or organization may request in order to carry out the provisions of this section.

"(e) Not later than 120 days after the date of enactment of the Native American Programs Act Amendments of 1987, the Secretary, in consultation with appropriate agencies of the State of Hawaii and community-based Native Hawaiian organizations, shall prescribe regulations which set forth the procedures and criteria to be used—

"(1) in making loans under subsection (a)(1)(A); and

"(2) in canceling, adjusting, compromising, and reducing under subsection (c) the outstanding amounts of such loans.

The Secretary may prescribe such other regulations as may be necessary to carry out the purposes of this section, including regulations involving reporting and auditing.

"(f)(1) There is authorized to be appropriated for fiscal years 1988, 1989, and 1990 the aggregate amount $3,000,000 for all such fiscal years for the purpose of carrying out the provisions of this section. Any amount appropriated under this paragraph shall remain available for expenditure without fiscal year limitation.

"(2) The revolving loan fund that is required to be established under subsection (a)(1) shall be maintained as a separate account. Any portion of the revolving loan fund that is not required for expenditure shall be invested in obligations of the United States or in obligations guaranteed or insured by the United States.

"(3)(A) All monies that are in the revolving loan fund at the close of the 5-year period beginning on the date of enactment of the Native American Programs Act Amendments of 1987 and that are not otherwise needed (as determined by the Secretary) to carry out the provisions of this section shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(B) All monies deposited in the revolving loan fund after the close of such period pursuant to subsection (a)(1)(B) shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(g)(1) The Secretary, in consultation with the agency or organization to which a grant is awarded under subsection (a)(1), shall submit to the Congress—

"(A) an interim report not later than 2 years after the date of enactment of the Native American Programs Act Amendments of 1987; and

"(B) a final report not later than 4 years after the date of enactment of the Native American Programs Act Amendments of 1987;

regarding the administration of this section.

"(2) Each such report shall include the views and recommendations of the Secretary regarding—

"(A) the effectiveness of the demonstration project;

"(B) whether the demonstration project should be expanded to other groups eligible for assistance under this title; and

"(C) whether the duration of the demonstration project should be extended.

(b) CONFORMING AMENDMENTS.—Subsections (a) and (b) of section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d), as so redesignated by section 502, are each amended by inserting "(other than section 803A)" after "title".

(c) TECHNICAL AMENDMENTS.—The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended—

(1) in section 802 by striking "Hawaiian Natives" and inserting "Native Hawaiians", and

(2) in the first sentence of section 803 by striking "Hawaiian Natives" and inserting "Native Hawaiians".

TITLE VI—HEALTH CARE SERVICES IN THE HOME

SEC. 601. SHORT TITLE.

This title may be cited as the "Health Care Services in the Home Act of 1987".

SEC. 602. ESTABLISHMENT OF GRANT PROGRAMS FOR DEMONSTRATION PROJECTS.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

"PART K—HEALTH CARE SERVICES IN THE HOME

"Subpart I—Grants for Demonstration Projects

"SEC. 395. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make not less than 3, and not more than 5, grants to States for the purpose of assisting grantees in carrying out demonstration projects—

"(1) to identify low-income individuals who can avoid institutionalization or prolonged hospitalization if skilled medical services or related health services (or both) are provided in the homes of the individuals;

"(2) to pay the costs of the provision of such services in the homes of such individuals; and

"(3) to coordinate the provision by public and private entities of such services, and other long-term care services, in the homes of such individuals.

"(b) Requirement With Respect to Age of Recipients of Services.—The Secretary may not make a grant under subsection (a) to a State unless the State agrees to ensure that not less than 25 percent of individuals receiving services pursuant to subsection (a) are individuals who are not less than 65 years of age.

"(c) Relationship to Items and Services Under Other Programs.—A State may not make payments from a grant under subsection (a) for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(2) by an entity that provides health services on a prepaid basis.

"SEC. 396. LIMITATION ON DURATION OF GRANT AND REQUIREMENT OF MATCHING FUNDS.

"(a) Limitation on Duration of Grant.—The period during which payments are made to a State from a grant under section 395(a) may not exceed 3 years. Such payments shall be subject to annual evaluation by the Secretary.

"(b) Requirement of Matching Funds.—

"(1)(A) For the first year of payments to a State from a grant under section 395(a), the Secretary may not make such payments in an amount exceeding 75 percent of the costs of services to be provided by the State pursuant to such section.

"(B) For the second year of such payments to a State, the Secretary may not make such payments in an amount exceeding 65 percent of the costs of such services.

"(C) For the third year of such payments to a State, the Secretary may not make such payments in an amount exceeding 55 percent of the costs of such services.

"(2) The Secretary may not make a grant under section 395(a) to a State unless the State agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward the costs of services to be provided pursuant to such section in an amount equal to—

"(A) for the first year of payments to the State from the grant, not less than $25 (in cash or in kind under subsection (c)) for each $75 of Federal funds provided in the grant;

"(B) for the second year of such payments to the State, not less than $35 (in cash or in kind under subsection (c)) for each $65 of such Federal funds; and

"(C) for the third year of such payments to the State, not less than $45 (in cash or in kind under subsection (c)) for each $55 of such Federal funds.

"(c) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in subsection (b) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"SEC. 397. GENERAL PROVISIONS.

"(a) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make a grant under section 395(a) to a State unless the State agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

"(b) DESCRIPTION OF INTENDED USE OF GRANT.—The Secretary may not make a grant under section 395(a) to a State unless—

"(1) the State submits to the Secretary a description of the purposes for which the State intends to expend the grant; and

"(2) such description provides information relating to the programs and activities to be supported and services to be provided, including—

"(A) the number of individuals who will receive services pursuant to section 395(a) and the average costs of providing such services to each such individual; and

"(B) a description of the manner in which such programs and activities will be coordinated with any similar programs and activities of public and private entities.

"(c) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under section 395(a) to a State unless the State has submitted to the Secretary an application for the grant. The application shall—

"(1) contain the description of intended expenditures required in subsection (b);

"(2) with respect to carrying out the purpose for which the grant is to be made, provide assurances of compliance satisfactory to the Secretary; and

"(3) otherwise be in such form, be made in such manner, and contain such information and agreements as the Secretary determines to be necessary to carry out this subpart.

"(d) EVALUATIONS AND REPORT BY SECRETARY.—The Secretary shall—

"(1) provide for an evaluation of each demonstration project for which a grant is made under section 395(a); and

"(2) not later than 6 months after the completion of such evaluations, submit to the Congress a report describing the findings made as a result of the evaluations.

"(e) AUTHORIZATIONS OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.

"Subpart II—Grants for Demonstrations Projects With Respect to Alzheimer's Disease

"SEC. 398. ESTABLISHMENT OF PROGRAM.

"(a) In General.—The Secretary shall make not less than 3, and not more than 5, grants to States for the purpose of assisting grantees in carrying out demonstration projects for planning, establishing, and operating programs—

"(1) to coordinate the development and operation by public and private organizations of diagnostic, treatment, care management, respite care, legal counseling, and education services provided within the State to individuals with Alzheimer's disease or related disorders and to the families and care providers of such individuals;

"(2) to provide home health care, personal care, day care, companion services, short-term care in health facilities, and other respite care to individuals with Alzheimer's disease or related disorders; and

"(3) to provide to health care providers, to individuals with Alzheimer's disease or related disorders, to the families of such individuals, to organizations established for such individuals and such families, and to the general public, information with respect to—

"(A) diagnostic services, treatment services, and related services available to such individuals and to the families of such individuals;

"(B) sources of assistance in obtaining such services, including assistance under entitlement programs; and

"(C) the legal rights of such individuals and such families.

"(b) Requirement With Respect to Certain Expenditures.—The Secretary may not make a grant under subsection (a) to a State unless the State agrees to expend not less than 50 percent of the grant for the provision of services described in subsection (a)(2).

"(c) Relationship to Items and Services Under Other Programs.—A State may not make payments from a grant under subsection (a) for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(2) by an entity that provides health services on a prepaid basis.

"SEC. 399. LIMITATION ON DURATION OF GRANT AND REQUIREMENT OF MATCHING FUNDS.

"(a) Limitation on Duration of Grant.—The period during which payments are made to a State from a grant under section 398(a) may not exceed 3 years. Such payments shall be subject to annual evaluation by the Secretary.

"(b) Requirement of Matching Funds.—

"(1)(A) For the first year of payments to a State from a grant under section 398(a), the Secretary may not make such payments

in an amount exceeding 75 percent of the costs of services to be provided by the State pursuant to such section.

"(B) For the second year of such payments to a State, the Secretary may not make such payments in an amount exceeding 65 percent of the costs of such services.

"(C) For the third year of such payments to a State, the Secretary may not make such payments in an amount exceeding 55 percent of the costs of such services.

"(2) The Secretary may not make a grant under section 398(a) to a State unless the State agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward the costs of services to be provided pursuant to such section in an amount equal to—

"(A) for the first year of payments to the State from the grant, not less than $25 (in cash or in kind under subsection (c)) for each $75 of Federal funds provided in the grant;

"(B) for the second year of such payments to the State, not less than $35 (in cash or in kind under subsection (c)) for each $65 of such Federal funds; and

"(C) for the third year of such payments to the State, not less than $45 (in cash or in kind under subsection (c)) for each $55 of such Federal funds.

"(c) Determination of Amount of Non-Federal Contribution.—Non-Federal contributions required in subsection (b) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"SEC. 399A. GENERAL PROVISIONS.

"(a) Limitation on Administrative Expenses.—The Secretary may not make a grant under section 398(a) to a State unless the State agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

"(b) Description of Intended Use of Grant.—The Secretary may not make a grant under section 398(a) to a State unless—

"(1) the State submits to the Secretary a description of the purposes for which the State intends to expend the grant; and

"(2) such description provides information relating to the programs and activities to be supported and services to be provided, including—

"(A) the number of individuals who will receive services pursuant to section 398(a) and the average costs of providing such services to each such individual; and

"(B) a description of the manner in which such programs and activities will be coordinated with any similar programs and activities of public and private entities.

"(c) Requirement of Application.—The Secretary may not make a grant under section 398(a) to a State unless the State has submitted to the Secretary an application for the grant. The application shall—

"(1) contain the description of intended expenditures required in subsection (b);

"(2) with respect to carrying out the purpose for which the grant is to be made, provide assurances of compliance satisfactory to the Secretary; and

"(3) otherwise be in such form, be made in such manner, and contain such information and agreements as the Secretary determines to be necessary to carry out this subpart.

"(d) EVALUATIONS AND REPORT BY SECRETARY.—The Secretary shall—

"(1) provide for an evaluation of each demonstration project for which a grant is made under section 398(a); and

"(2) not later than 6 months after the completion of such evaluations, submit to the Congress a report describing the findings made as a result of the evaluations.

"(e) AUTHORIZATIONS OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.".

TITLE VII—GENERAL PROVISIONS

SEC. 701. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsections (b) and (c), this Act and the amendments made by this Act shall take effect on October 1, 1987.

(b) APPLICATION OF AMENDMENTS.—The amendments made by title I of this Act shall not apply with respect to—

(1) any area plan submitted under section 306(a) of the Older Americans Act of 1965, or

(2) any State plan submitted under section 307(a) of such Act, and approved for any fiscal year beginning before the date of the enactment of this Act.

(c) EFFECTIVE DATE OF SECTION 506.—The amendments made by section 506 of this Act shall take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act.

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